Document, 38-4 Case 3:08-cv-00161-H-BLM

Filed 08/11/2008 Page 1 of 52

NEHEMIAH ROBINSON J-71342 CALIPATRIA STATE PRISON (ASU, E-POD #148) P.O. BOX 5008 CALIPATRIA, CA. 92233

2008 AUG 11 AM 8: 30

CLERK US DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA

DEPUTY

NUNC PRO TUNC AUG - 5 2008

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA

NEHEMIAH ROBINSON,

Plaintiff,

V.

T. CATLETT, ET AL.,

Defendants.

08-CV-DOIDI-H (BLM)

DECLARATION OF N. ROBINSON IN SUPPORT OF REQUEST FOR JUDICIAL NOTICEAND SU PPORT OF OPPOSITION TO DEFENDANTS MOTION TO DISMISS PLAINTIFF'S FIRST AMENDED COMPLAINT.

HEARING:

JULY 29,2008

TIME:

9:00 A.M

COURTROOM:

5140

JUDGE:

THE HONORABLE

BARBARA L. MAJOR

- I, N. ROBINSON, DECLARE AS FOLLOWS:
- 1. I AM THE PLAINTIFF IN THE CIVIL SUIT BEFORE THE COURT.
- 2. THAT I HAVE BEEN LOCATED AND HOUSED AT CALIPATRIA

STATE PRISON (CAL) IN CALIPATRIA CALIFORNIA, SINCE JANUARY 6 11, 2006; UNTIL THIS DAY.

3. THAT I PERSONALLY PREPARED AND FILED EACH AND EVERY COMPLAINT AND/OR APPEAL ATTACHED TO THIS DECLARATION WHILE HERE AT CALIPATRIA

STATE PRISON (CAL) IN CALIPATRIA CALIFORNIA.

- 4. THAT IN ORDER FOR AN APPEAL AND/OR COMPLAINT TO PROCEED TO
 THE FIRST, SECOND, LEVEL, IT MUST FIRST BE PROCESSED BY THE
 APPEALS CODRDINATOR HERE AT CALIPATRIA STATE PRISON, (CAL) IN CALIPATRIA
 CALIFORNIA.
- 5. I MAKE THE FOLLOWING DECLARATION OF FACTS BASED ON MY OWN KNOWLEDGE AND, IF CALLED, CAN TESTIFY COMPETENTLY THERETO,
- 6. THE DOCUMENTS ARE TRUE AND CORRECT COPIES OF RECORDS
 KEPT BY CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION
 (CDCR) HERE AT THE INSTITUTION AND WAS ISSUED BY CORRECTIONAL
 OFFICERS HERE AT CALIPATRIA STATE PRISON, (CAL) IN CALIPATRIA CALIFORNIA.
 THEY ARE TRUE COPIES OF DOCUMENTS PREPARED BY CDCR STAFF IN THE
 ORDINARY COURSE OF BUSINESS.
- 7. ATTACHED AS EXHIBIT I IS A TRUE AND CORRECT COPY OF THE INMATE APPEAL WITH THE REASONABLE MODIFICATION OR ACCOMMODATION REQUEST, DATED BY NEHEMIAH ROBINSON J-71342 AS MARCH 29, 2006, ALONG WITH DOCUMENTS SUBMITTED BY ROBINSON AND THE FIRST, SECOND, AND DIRECTOR'S LEVEL RESPONSES.
- 8. ATTACHED AS EXHIBIT 2 IS A TRUE AND CORRECT COPY OF THE INMATE APPEAL DATED BY NEHEMIAH ROBINSON J-71342 AS JUNE 18, 2007, ALONG WITH THE FIRST, SECOND AND DIRECTOR'S LEVEL RESPONSES.
- 9. ATTACHED AS EXHIBIT 3 IS A TRUE AND CORRECT COPY OF THE REASONABLE MODIFICATION OR ACCOMMODATION REQUEST DATED BY NEHEMIAH ROBINSON J-71342 AS SEPTEMBER 11, 2007, WITH DOCUMENTS SUBMITTED BY ROBINSON, ALONG WITH THE RESPONSES.
- 10. ATTACHED AS EXHIBIT 4 IS A TRUE AND CORRECT COPY OF THE INMATE APPEAL DATED BY NEHEMIAH RUBINSON J-71342 AS SEPTEMBER 12, 2007, WITH DOCUMENTS SUBMITTED BY ROBINSON, ALONG WITH THE FIRST,

SECOND, AND DIRECTOR'S LEVEL RESPONSES.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF CALIFORNIA AND THE UNITED STATES OF AMERICA THAT THE FOREGOING IS TRUE AND CORRECT.

EXECUTED ON JULY 30TH , 2008, AT CALIPATRIA, CALIFORNIA.

N. ROBINSON J-71342, PLAINTI

| Case 3:08-cv-00161-H-E | BLM Docum 0.5 2004 | ent 38-4 F | Filed 08/11/200 CAL | 98 Page 4 6 B 06 009 | of 52 5 1 |
|--|--|--|---|---|---|
| INMATE/PAROLEE APPEAL FORM | Location: Institution. | /Parole Region | Log No. | Cate | egory |
| You may appeal any policy, action or decision where committee actions, and classification and staff representation, who will sign your form and state where documents and not more than one additional page for using the appeals procedure responsibly. | presentative decision: at action was taken. | s, you must first info If you are not then | rmally seek relief thro | ough discussion with | the appropriate staff |
| Nehemiah Robinson | NUMBER J-71342 | ASSIGNMENT | | | B-1- #133 4. |
| A. Describe Problem: Petitioner her State Taw of rights secured and establish of the U.S. Constitution, Agreement reached in Plansausuff regarding medical Confetitioner assert that he Is If you need more space, attach one additional shall be supported to the sequested: Wherevotore it is inners UDC 7410 (Comprehense) | ed by the reed right to Per CCR Tit Ta V. Davist Core in all clition is a security of the conticulation of the continuum of the conticulation of the continuum of the conticulation of the conticulation of the continuum o | Fille this He 15 \$ 305 Plata is Polifornia Member o Care Pat | Ention. To he Complaint 84.1. (a) uno a federal Civ Prisons, und f the Class ient that S | ere by involute Per. The Per. The Vil rights Colorered by Covered | ce my feder- 15T Amend. Settlement lass action Prisoner who The lawsuit. n "Significant |
| in facility "B" #1 block (Name of the submit | hen la Vacon | r Cell is ava. | ilable) in Ke | reping With linator due | the CDC 7410 |
| C. INFORMAL LEVEL (Date Received: |) | | | WHA. | 20 E M |
| Staff Signature: | | | Date Re | AAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAA | OE VED |
| | coordinator for proce e have not clared I Previous CD and he be refurned Laboration | essing within 15 da Here is very auri 16-06 auri 16-02 rega 16-02 rega | Investigator's Report, ys of receipt of respo The CDC Thored by D anding This | Classification chrorense. 7410 (Com R. AN MIN Matter, Si CDC 602. Out Date Submitted: | prehensive H NGUYE, Ibmitted to 70" SGT. 5-10-06 |
| Board of Control form BC-1E, Inmate Claim | med by a completed | · | | CDC A | ppeal Number: |

Cont. of A! (describe problem)

Collagen Vascular disease / Post-Traumatic degenerative orthritis in major Joints (Please see medical file) which debilitate and impoirs my ability to function normal during the lold seasons, et. Petitioner further assert that he Underwent "A. C. L. Relonstruction with autograft of the (R) Knee; asserting that Petitioner also suffer from a "Lateral Meniscal Tear and await Surgery" (Please see medical file).

On or about 2-6ob, Petitioner was Placed in facility "B", housed in #1 block, in Cell # 133; and assigned to the "upper bunk", due to their not being any more bed space in present and other blocks within facility "B" (as stated by the then Housing SGT.); asserting that his Cellie is assigned to the lower bunk, and he suffers from a bado back / bado knee, and weight Well-over-230-Pounds! Petitioner assert that on or about 3-17-06, he submitted a CDC 602 (appeal) with attached CDC 7410 (Comprehensive accommodation Chrono) addressing Petitioners required uccommodations (due to a medical Condition) to wit (1) Ground floor (Cell ,(2) Bottom bunk and (3) Cane (dont have copy of said Chrono nor do i recall date of said Chrono); asserting that the CDC 601 (appeal) was Submitted to Clo Garrett, respectfully requesting to be Placed in Cell-144, Which was a "Vacant Cell", located in block #1, on the lowers On or about 3-17-06, C/o Garrett gave Petitioner back the CDC 602 (appeal) and instructed him to submit the CDC 602 (appeal) to his CD- worker C/o M. Arvizu" because he (C/o Garrett. didn't have time to look into the issue, et; asserting that Clo Garrett Stated that his Co-worker will inform the Housing SGT. On the Situation and submit the CDC 602 (appeal) to the Housing SGT. Petitioner assert that he did us instructed by Clo Garrett and Sub-

06. Petitioner asked C/O M. Arvizu did he give the (nver)

.On or about 3-18-

mitted the CDC 602 (appeal) to C/o M. Arvizu

Filed 08/11/2008

Page 6 of 52

STATE OF CALIFORNIA

CDC 1824 (1/95)

REASONABLE MODIFICATION OR ACCOMMODATION REQUEST

INSTITUTION PAROLE REGION:

B 0 5 009 5 1

CATEGORY:

DEPARTMENT OF CORRECTIONS

NOTE: THIS FORM IS TO BE USED ONLY BY INMATES/PAROLEES WITH DISABILITIES

In processing this request, it will be verified that the inmate/parolee has a disability which is covered under the Americans With Disabilities Act.

| | | | | | | |
|--|------------------|--|--|---------------------------------------|---------------|----------------|
| INMATE/PAROLEE'S NAME (PRINT) |) , ; | CDC NUMBER | ASSIGNMENT | HOURS/WATCH | HOUSIN | 1G |
| Rubinson, Wehen | liah | J71342 | , | | B1-1 | 33U |
| In accordance with the provision | s of the Ame | ricans With Disab | ilities Act (ADA), | no qualified individu | als with a c | ilsability |
| shall, on the basis of disability, be e | xcluded from | n participation in, | or be denied the | benefits of the servic | əs, activitle | s, or |
| programs of a public entity, or be su You may use this form to reques | | | tion or accommo | dation which if grant | ad would a | nahla |
| you to participate in a service, activ | ity or progra | m offered by the I | Department/institu | ition/facility, for whic | n you are o | therwise |
| qualified/eligible to participate. | | | • | | | |
| Submit this completed form to the within 15 working days of receipt at | the Appeals | Coordinator's Of | ais Coordinator's lice and the comp | Office. A decision wi | urned to vo | red u |
| If you do not agree with the decis | sion on this f | orm, you may pui | sue further review | v. The decision rend | ered on this | s form |
| constitutes a decision at the FIRST To proceed to SECOND LEVEL, a | | | aralas Annosi Es | (CDC 602) and so | salata asati | |
| of the appeal form. | ittacii tiiis io | iiii to aii iiiiiate/r | arolee Appear For | m (CDC 602) and con | ibiete secti | on F |
| Submit the appeal with attachme | nt to the App | eals Coordinator | s Office within 15 | days of your receipt | of the deci | sion |
| rendered on this request form. If you are not satisfied with the S | ECOND LEV | EL review decisio | n. you may reque | st THIRD LEVEL revie | w as instru | icted on |
| the CDC 602. | • | | | | | <u>-</u> |
| MOD | IFICATION | OR ACCOMM | ODATION REC | UESTED | | |
| DESCRIPTION OF DISABILITY: | | | | | | |
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Document 38-4

Filed 08/11/2004 Bag 1000 95/

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

COMPREHENSIVE ACCOMMODATION CHRONO

INSTRUCTIONS: A physician shall complete this form if an inmate requires an accommodation due to a medical condition. Circle P if the accommodation is to be permanent, or T if the accommodation is to be temporary. If the accommodation is temporary, write the date the accommodation expires on the line. A new form shall be generated when a change to an accommodation is required or upon renewal of a temporary accommodation. Any new form generated shall include previous accommodations, if they still apply. Chronos indicating permanent accommodations shall be reviewed annually. This form shall be honored as a permanent chrono at all institutions.

| A. HOUSING | | | 0 11107 |
|---|--|--|---|
| one | • | Bottom Bunk | P/ 2/8/87 |
| arrier Free/Wheclchair Access | P/T | Single Cell (See 128-C date:) | P/T |
| round Floor Cell | P/D 2/8/07 | Permanent OHU / CTC (circle onc) | P/T |
| Continuous Powered Generator | P/T | Other | P/T |
| B. MEDICAL EQUIPMENT/SUI | PPLIES | and the second s | an and grant and the first processing the constraints of the second |
| one | e de lange e e | Wheelchair: (type) | P/T |
| imb Prosthesis | P/T | Contact Lens(es) & Supplies | P/T |
| Necombre Knee brace | P (T) 2/8/07 | Hearing Aid | P/T |
| race Neighbru Knee brace medium night | P/T | Special Garment: | |
| cane: (type) for aurlimation | P (2/8/07 | (specify) | P/T |
| Valker | P/T | Rx. Glasses: | P/T |
| valker Pressing/Catheter/Colostomy Supplie | | Cotton Bedding | P/T |
| hoe: (specify) | | Extra Mattress | P/T |
| inoe: (specity) Dialysis Peritoneal | P/T | Other | P/T |
| | | | |
| C. OTHER | | Therapeutic Diet: (specify) | P/T |
| (one) | P/T | Yacimbonia 21-1 | · |
| Attendant to assist with meal access and other movement inside the institu | | Communication Assistance | P/T |
| Attendant will not feed or lift the inmat | | Transport Vehicle with Lift | P/T |
| Attendant will not reed of fitt the himator perform elements of personal hygien | e. | Short Beard | P/T |
| Wheelchair Accessible Table | P/T | Other | P/T |
| D. PHYSICAL LIMITATIONS | TO JOB ASSIGNM | ENTS | 0 1 |
| and there any nh | velcal limitations to $[0]$ | b assignments? Yes UNO | |
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| SIGNATURE Aumin Prepriese | DATE 2/8 | OG CIC NUMBER, NAME (BASI, III | 1 |
| | and the same of th | ROBINSON | 1N. |
| HCM/CMO SIGNATURE | DATE | 16/06 | |
| John W | | 19/06 | () |
| (CIRCLE ONE) APPROVED / DEN | NIED CC: E | J 713 | t / |
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| COMPREHENSIVE ACCOMMO | h. | nint of | |
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STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

COMPREHENSIVE ACCOMMODATION CHRONO

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| <u></u> | | · · · · · · · · · · · · · · · · · · · | |
|---|--|--|--|
| A. HOUSING | | | |
| None | • | Bottom Bunk | P (T) 0(06/07 |
| Barrier Free/Wheelchair Access | P/T | Single Cell (See 128-C date:) | P/T |
| Ground Floor Cell | P(1901/06/07 | Permanent OHU / CTC (circle one) | P/T |
| Continuous Powered Generator | P/T | Other | P/T |
| B. MEDICAL EQUIRMENT/SUP | PLIES | La transfer of the state of the | 4 |
| None | and the second s | Wheelelfair: (type) | P/T |
| Limb Prosthesis | P/T | Contact Lens(es) & Supplies | P/T |
| Brace | P/T | Hearing Aid | P/T |
| Crutches | P/T | Special Garment: | • |
| Cane: (type) (DNE) | P(POLOC 67 | (specify) | P/T |
| Walker | P/T | Rx. Glassos: | P/T |
| Dressing/Catheter/Colostomy Supplies | P/T | Cotton Bedding | P/T |
| Shoe: (specify) | P/T | Extra Mattress | P/T |
| Dialysis Peritoncal | P/T | Other | P/T |
| C. OTHER | | | |
| None | • • • | Therapeutic Dict: (specify) | P/T |
| Attendant to assist with meal access and other movement inside the institut | P/T | Communication Assistance | P/T |
| Attendant will not feed or lift the inmate/ | • | Transport Vehicle with Lift | P/T |
| or perform elements of personal hygiene | | Short Beard | P/T |
| Wheelchair Accessible Table | P/T | Other | P/T |
| D. PHYSICAL LIMITATIONS | O JOB ASSIGNMEN | TS TO THE TOTAL PROPERTY OF THE PARTY OF THE | and the same of th |
| Based on the above, are there any phy If yes, specify: HI JANT. Crucus | In Big Segin ca | Leh Ochoanic Cons | Tever |
| INSTITUTION | 1 | BY (PRINT NAME) - SALVTIFALO | M-D |
| SIGNATURE | DATE | CDC NUMBER, NAME (LAST, FIRE | Í |
| HEMICHO SIGNATURE 4. | CMD DATES | OF KOBINSON, | • |
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| COMPREHENSIVE ACCOMMOD | ATION Chag. | EU 133 | u |
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DEPARTMENT OF CORRECTIONS

COMPREHENSIVE ACCOMMODATION CHRONO

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| A. HOUSING | The state of the s | | |
| None | | Bottom Bunk | P/T |
| Barrier Free/Wheelchair Access | P/T | Single Cell (See 128-C date:) | P/T |
| Ground Floor Cell | P/T | Permanent OHU / CTC (circle one) | P/T |
| Continuous Powered Generator | P/T | Other | P/T |
| B. MEDICAL EQUIPMENT/SUPP | LIES | | |
| None | | Wheelchair: (type) | P/T |
| Limb Prosthesis | VT. | Contact Lens(es) & Supplies | P/T |
| Brace | > /,T | Hearing Aid | P/T |
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| Walker | 2/T | Rx. Glasses: | P/T |
| Dressing/Catheter/Colostomy Supplies I | 2/ T | Cotton Bedding | P/T |
| Shoe: (specify) Units style 1 | (T) 3/22/07 | Extra Mattress | P/T |
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| C. OTHER | | i de tropiè a tropiè de la companya de la companya De la companya de la | |
| None | | Therapeutic Diet: (specify) | P/T |
| Attendant to assist with meal access I | P/T | | |
| and other movement inside the institution | | Communication Assistance | P/T |
| Attendant will not feed or lift the inmate/pa | tient | Transport Vehicle with Lift | P/T |
| or perform elements of personal hygiene. | | Short Beard | P/T |
| · <u>在一个一个一个一个一个一个一个一个一个一个一个一个一个一个一个一个一个一个一个</u> | | Other Wast restraints cuff | P (T) 3/27/07 |
| D. PHYSICAL LIMITATIONS TO | | | A THE PARTY AND A PROPERTY OF THE PARTY OF T |
| Based on the above, are there any physic | al limitations to job ass | ignments? □ Yes □ No | |
| If yes, specify: | | | |
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| COMPREHENSIVE ACCOMMODAT | ion Lousing | Oltren | |
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CDC 7410 (03/04)

STATE OF CALIFORNIA

Original - Unit Health Record.

Canary - Central File

Pink - Correctional Counselor

Gold - Inmate

Calipatria State Prison

Calipatria California

SUPPLEMENTAL PAGE FIRST LEVEL APPEAL

TO:

INMATE ROBINSON, J-71342

RE: APPEAL LOG NUMBER:

CAL-B-06-00951

APPEAL DECISION:

PARTIALLY GRANTED

INMATE INTERVIEWED BY:

CORRECTIONAL SERGEANT, T. CATLETT

APPEAL ISSUE:

ADA

APPEAL RESPONSE: In consideration of your appeal, a thorough review of your appeal and its attachments was conducted. The California Code of Regulations and all applicable laws and procedures were considered along with the contents of your Central File.

It is your position your medical condition necessitates you be housed in a cell on the lower bunk and on the lower tier.

You requested to be placed in a vacant cell on Facility B.

You were interviewed on April 25, 2006, by Correctional Sergeant T. Catlett, regarding your appeal. During the interview you indicated all you had to say was already in the appeal. Attached is a copy of your current CDC7410, indicating you are to be assigned to a lower bunk / lower tier. On May 4, 2006, a CDC-154 (attached) was generated moving you to a lower bunk / lower tier." You are not entitled to a "vacant cell".

Based on the above information, your appeal is **PARTIALLY GRANTED** at the First Level of review.

W. J. PRICE

Facility Captain

Facility B

State of California

Department of Corrections and Rehabilitation

Memorandum

Date

MAY 3 0 2006

То

INMATE ROBINSON, J71342

Subject:

SECOND LEVEL APPEAL RESPONSE

LOG NO: CAL-B-06-00951

ISSUE: ADA

It is your position that due to your medical condition you should be housed in a vacant cell with a lower tier/lower bunk assignment on Facility "B". Additionally, you are requesting your CDC 7410, Comprehensive Accommodation Chrono be returned to you from the "Housing Sergeant" and you be allowed to file a CDC 602, Inmate Appeal with Appeals regarding your complaint.

You are requesting reassignment to a vacant cell on Facility "B" when a vacant cell is available.

INTERVIEWED BY: T. Catlett, Correctional Sergeant

REGULATIONS: The rule(s) governing this issue is (are):

California Code of Regulations, Title 15, Section 3375, Classification Process Department Operations Manual, Section 520220.4.3 and The Americans with Disabilities Act

DISCUSSION:

On May 4, 2006, a CDC 154, Inmate Transfer/Housing Assignment Change, was generated moving you to a lower bunk on the lower tier to comply with the CDC 7410 Chrono dated February 16, 2006. In your appeal you stated you spoke with the "Housing Sergeant", however, Calipatria State Prison does not have a "Housing Sergeant" position. The Housing Lieutenant makes the appropriate cell moves and bed assignments.

A review of your Central File indicates you were cleared for double cell housing on January 18, 2006, during Initial Classification Committee. A further review of the CDC 7410, Chrono signed and dated February 16, 2006, does not indicate you required vacant or single cell housing.

INMATE ROBINSON CAL-B-06-00951I Page 2

Two copies of the CDC 7410, Chronos were returned to you on May 21, 2006, and as you requested this CDC 602, Inmate Appeal was processed through the Appeals Coordinator. You were subsequently moved to your current cell assignment of B2-107L.

<u>DECISION:</u> The appeal is Partially Granted at the Second Level of Review.

The appellant is advised that this issue may be submitted for a Director's Level of Review if desired.

M. E. BOURLAND

Chief Deputy Warden (A) Calipatria State Prison STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS AND REHABILITATION INMATE APPEALS BRANCH

P. O. BOX 942883

SACRAMENTO, CA 94283-0001

DIRECTOR'S LEVEL APPEAL DECISION

Date: JUN 2 8 2006

In re:

Robinson, J-71342 Calipatria State Prison P.O. Box 5002 Calipatria, CA 92233

IAB Case No.: 0513814

Local Log No.: CAL 06-00951

This matter was reviewed on behalf of the Director of the California Department of Corrections and Rehabilitation (CDCR) by Appeals Examiner K. J. Allen. All submitted documentation and supporting arguments of the parties have been considered.

- I APPELLANT'S ARGUMENT: It is the appellant's position that due to his medical condition he should be housed in a vacant cell on a lower tier. The appellant believes that staff would be violating his constitutional rights if he does not receive the lower bunk chrono. The appellant also requests a copy of his CDCR Form 7410, Comprehensive Accommodation Chrono.
- II SECOND LEVEL'S DECISION: The reviewer found that the appellant is currently housed in a lower tier cell and assigned to the lower bunk consistent with his CDCR Form 7410, dated February 16, 2006. A review of the appellant's central file indicates he is clear for double-cell housing and there is nothing in his Unit Health Record that indicates he requires single-cell housing. Lastly, the reviewer notes that two copies of the appellant's CDCR Form 7410 were provided to him on May 21, 2006. The appeal was partially granted at the Second Level of Review.
- III DIRECTOR'S LEVEL DECISION: Appeal is denied.
 - A. FINDINGS: The appeal received a through review by supervisory staff, and the appellant's housing is consistent with his medical needs. Additional relief from the Director's Level of Review is unwarranted.

The appellant has added new issues and requests to his appeal regarding a correctional sergeant not properly responding to his original appeal. The additional requested action is not addressed herein as it is not appropriate to expand the appeal beyond the initial problem and the initially requested action (CDC Form 602, Inmate/Parolee Appeal Form, Sections A and B). This must be submitted to the institution for review on a separate appeal in order to allow institutional staff the opportunity to respond and, possibly, provide the appellant with a satisfactory response.

B. BASIS FOR THE DECISION:

Armstrong v. Davis Court Ordered Remedial Plan: ARPI, ARPII.A, ARPII.F, ARPIV.I California Code of Regulations, Title 15, Section: 3001, 3350, 3354

C. ORDER: No change; or modifications are required by the institution.

This decision exhausts the administrative remedy available to the appellant within CDCR.

N. GRANNIS, Chief Inmate Appeals Branch

cc: Warden, CAL

Health Care Manager, CAL Appeals Coordinator, CAL Medical Appeals Analyst, CAL ROBINSON, NEHEMIAH V. T. CATLETT, et al. USDC-SOUTHERN DISTRICT CASE NO. 08-CV-00161-H (BLM)

EXHIBIT 2

Document 38-4

2.

Filed 08/11/2008

Page 15 of 52

STATE BECEIVED CAL APPEALS JUL 2 7 2007

| INMATE/PAROLEE | |
|----------------|--|
| APPEAL FORM | |

APPEAL

DEPARTMENT OF CORRECTIONS

You may appeal any policy, action or decision which has a significant adverse affect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff

| NEHEMIAH ROBINSON J- Describe Problem: <u>PETITIONER HEREBY M</u> RIGHTS SECURED BY THE U.S. CONSTITUTE ESTABLISHED RIGHT TO FILE THIS COMPLETED RIGHT RIGH | UTION. I I MPLAINT F | HEREBY INVOKE | MY FEDERALLY SE | CURED AND |
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| FURTHER INCIDENTS OF THIS NATURE, | | PENSATED \$5,000. | | |
| nmate/Parolee Signature: | Kal | F.* | Date Subr | nitted: <u>6-18-07</u> |
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Board of Control form BC-1E, Inmate Claim

Filed 08/11/2008 Page 16 of 520 Page

(SEE REVERSE SIDE)

(DESCRIBE PROBLEM)

RECEIVED CAL APPEALS JUL 27 2007

<u>POST-TRAUMATIC DEGENERATIVE ARTHRITIS IN MAJOR JOINTS (PLEASE SEE</u> MEDICAL FILE) WHICH DEBILITATE AND IMPAIRS MY ABILITY TO FUNCTION NORMAL AT TIMES. PETITIONER FURTHER ASSERT THAT HE UNDERWENT RECONSTRUCTION WITH AUTO-GRAFT OF THE RIGHT KNEE · ASSERTING THAT PETITIONER A " LATERAL = ALSO SUFFER FROM MENISCAL TEAR AND AWAIT SURGERY ON THE RIGHT KNEE (PLEASE SEE MEDICAL FILE). PETITIONER ASSERT THAT HE HAVE BEEN EXPERIENCING SEVERE PAIN IN HIS RIGHT-KNEE AND IN HIS MAJOR JOINTS. PETITIONER HAS COMPLAINED CONTINUOUSLY OF SAID CONDITIONS. AND AS A RESULT PETITIONER WAS TAKEN TO AN OUT SIDE HOSPITAL IN THE MONTH OF MAY, OT; EXAMINED AND PRESCRIBED PAIN MEDICATION BY AN ORTHO-Specialist (NAME UNKNOWN) (SEE MEDICAL FILE) THE DOCTOR (SPECIALIST) PRESCRIBED TRAMADOL HYDROCHLORIDE 50 MG. TABLET.". PETITIONER ASSERT THAT ON 6-17-07 AT 4:40 P.M. D. NOREIGA (LVN) BAVE ME MY MEDICATION RECEIVED FOR THE FIRST. TIME ". TO WIT TRAMADOL HYDROCHLORIDE SO MG TABLET. D. NOREIGA (LVN) STATED THAT SHE DONT KNOW WHY PETITIONER HAVE NOT BEEN RECEIVING HIS PAIN MEDICATION AND DONT KNOW WHEN IT WAS APPROVED, THAT SHE WILL LET ME KNOW TOMORROW PETITIONER ASSERT THAT ON 6-18-07 AT OR ABOUT 7:15 A.M D. NOREIGA (LYN) WAS DASSING OUT MEDICATION AND PETITIONER REQUESTED HIS PAIN MEDICATION? D. NOREIGA (LVN) DID NOT HAVE PAIN MEDICATION FOR PETITIONER, NOR DID SHE RECALL GIVEN PETITIONER HIS PAIN MEDICATION ON 6-17-07 NOR COULD D. NOREIGA (LVN) GIVE THE DATE SAID MEDICATION WAS APPROVED. D. NOREIGA (LVN) THEN WROTE PETITIONER NAME DOWN AND SAID THAT SHE WILL CHECK INTO THE MATTER. PETITIONER ASSERT THAT HE MADE DINDREIGA

AWARE OF THE FACT THAT 📟 HE IS IN SEVERE PAIN.

State of California

Department of Corrections and Rehabilitation

Memorandum

Date : August 20, 2007

To : Inmate ROBINSON, N. CDC# J71342

B2-107

Subject: SECOND LEVEL APPEAL RESPONSE

LOG NO: CAL-**B**-07-01247

ISSUE: The appellant is submitting this appeal relative to MEDICAL.

It is the appellant's position that he suffers from severe pain to his right knee and in his major joints. The appellant claims he was seen by an Ortho Specialist in May 2007, and was prescribed Tramadol for his pain; however, appellant claims he never received his medication.

The appellant is requesting to know when the medication was ordered and when he was suppose to receive it. The appellant further request that he receive the medication on time and that medical staff be counseled to prevent further incidents from occurring and that he be compensated \$5000.00 for pain and suffering.

INTERVIEWED BY: J.M. SALGADO, RN, on July 20, 2007.

REGULATIONS: The rules governing this issue are:

California Code of Regulations, Title 15, Article (CCR) 3350. Provision of Medical Care and Definitions

<u>DISCUSSION</u>: In consideration of this appeal, a review of the appeal and its attachments was conducted. The CCR and all applicable laws and procedures were also considered along with the contents of the appellant's Unit Health Record (UHR) and a personal interview.

The appellant was advised in the First Level Response that the medication (Tramadol) was ordered on May 23, 2007, but was never noted. The revised CDCR formulary of May 2007, had removed Tramadol. Delay occurred due to clarification of usage from Sacramento. After discussion with the Pharmacy staff in regard to the appellant's concern, Pharmacy staff stated that the Tramadol was ordered for the appellant on May 23, 2007 and again on August 2, 2007. The appellant's concern that he did not receive his medication in a timely manner was addressed with the Facility B Medical staff. Medical staff was advised of the importance of medication being delivered to the Inmate/Patient's in a timely manner or as soon as a discrepancy is determined. The appellant was seen on August 1, 2007, by his Primary Care Provider (PCP), S. Young, and the medication was ordered again for ninety days. The appellant is currently receiving his medication. Also a referral was submitted to the Medical Authorization Review Committee for the appellant to be seen by an Orthopedist, which is currently pending approval. The appellant is advised that in the future when medication needs to be refilled, he should notify medical staff a week prior to medication running out. If medication is not received, appellant is advised to notify medical staff as soon as possible. The appeal process does not allow for monetary compensation at any level.

Second Level Appeal Response Appeal Log # CAL-S-07-01247 Page 2

<u>DECISION</u>: The appeal is **Partially Granted** at the Second Formal Level in that the appellant is receiving the Tramadol ordered by the specialist and his PCP. The appellant is also advised that the referral to see the Orthopedist is currently being reviewed by the MAR Committee and pending approval.

The appellant is advised that his issue may be submitted for a Director's Level Review within 15 days of receipt of this response if desired.

M. CÓRREA, RN

Supervising Registered Nurse II

Calipatria State Prison

Reviewed by:

K BALL, D.O., CP&S Chief Physician/Surgeon

Calipatria State Prison

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS AND REHABILITATION
INMATE APPEALS BRANCH
P. O. BOX 942883
SACRAMENTO, CA 94283-0001

DIRECTOR'S LEVEL APPEAL DECISION

Date: DEC 1 4 2007

In re: Nehemiah Robinson, J71342 Calipatria State Prison P.O. Box 5002 Calipatria, CA 92233

IAB Case No.: 0708660 Local Log No.: CAL-07-01247

This matter was reviewed on behalf of the Director of the California Department of Corrections and Rehabilitation (CDCR) by Appeals Examiner V. O'Shaughnessy. All submitted documentation and supporting arguments of the parties have been considered.

- I APPELLANT'S ARGUMENT: It is the appellant's position that he suffers from severe pain to his right knee and in his major joints. The appellant claims he was seen by an orthopedic specialist in May 2007, and was prescribed Tramadol for his pain. The appellant claims he never received his Tramadol. The appellant is requesting to know when the Tramadol was ordered and when he was supposed to receive it. The appellant further requests that he receive the Tramadol on time and that medical staff be counseled to prevent further incidents from occurring. He also requests a compensation of \$5,000 for his pain and suffering.
- II SECOND LEVEL'S DECISION: The reviewer found that the appellant was advised in the First Level of Review that Tramadol was ordered on May 23, 2007, but was never noted. The revised CDCR formulary of May 2007, had removed Tramadol. Delay occurred due to clarification of usage from Sacramento. Pharmacy staff stated that the Tramadol was ordered for the appellant on May 23, 2007 and again on August 2, 2007. The appellant's concern that he did not receive his medication in a timely manner was addressed with the Facility "B" medical staff. The appellant was seen on August 1, 2007 by his primary care physician and the medication was reordered for ninety days. The appellant is currently receiving his medication. Also, a referral was submitted to the Medical Authorization Review Committee for the appellant to be seen by an orthopedist, which is currently pending approval. The appellant is advised that in the future when medication needs to be refilled, he should notify the medical staff a week prior to the expiration date. If medication is not received, appellant is advised to notify medical staff as soon as possible. The appeal process does not allow for monetary compensation at any level. The appeal was granted in part at the Second Level of Review (SLR) on August 20, 2007.

III DIRECTOR'S LEVEL DECISION: Appeal is denied.

A. FINDINGS: The Director's Level of Review reviewed the appellant's appeal complaint, the SLR response and contacted the institution medical staff for further information. On November 1, 2007, E. Banaga-Bugarin, Medical Appeals Coordinator, reported that the appellant is currently receiving Tramadol and Tylenol. He was evaluated by an orthopedist on October 10, 2007; a follow-up was requested once the magnetic resonance imaging (MRI) study was completed. On October 29, 2007, the appellant had the MRI study. A follow-up with the orthopedist will be scheduled. All of the appellant's issues on appeal have been addressed by the institution. Monetary compensation is beyond the scope of the appeals process. No modification to the SLR is warranted.

The appellant has added new issues and requests to his appeal. The additional requested action is not addressed herein as it is not appropriate to expand the appeal beyond the initial problem and the initially requested action (CDC Form 602, Inmate/Parolee Appeal Form, Sections A and B).

B. BASIS FOR THE DECISION:

California Code of Regulations, Title 15, Section: 3350, 3354

NEHEMIAH ROBINSON, J71342 CASE NO. 0708660 PAGE 2

C. ORDER: No changes or modifications are required by the Institution.

This decision exhausts the administrative remedy available to the appellant within CDCR. If dissatisfied, the appellant may forward this issue to the California Victims Compensation and Government Claims Board, (formerly known as the State Board of Control), Government Claims Unit, P.O. Box 3035, Sacramento, CA 95812-3035, for further review.

N. GRANNIS, Chief Inmate Appeals Branch

cc:

Warden, CAL

Health Care Manager, CAL

Appeals Coordinator, CAL ...

Medical Appeals Analyst, CAL

ROBINSON, NEHEMIAH V. T. CATLETT, et al.

USDC - SOUTHERN DISTRICT CASE NO. 08-CV-00161-H (BLM)

EXHIBIT 3

REASONABLE MODIFICATION OR

ACCOMMODATION REQUEST

Document 38-4

Filed 08/11/2008

Page 22 of 52

DEPARTMENT OF CORRECTIONS CATEGORY: LOG NUMBER:

INSTITUTION/PAROLE REGION:

CDC 1824 (1/95)

18. ADA

NOTE: THIS FORM IS TO BE USED ONLY BY INMATES/PAROLEES WITH DISABILITIES

In processing this request, it will be verified that the inmate/parolee has a disability which is covered under the Americans With Disabilities Act.

| INMATE/PAROLEE'S NAME (PRINT) | CDC NUMBER | ASSIGNMENT | HOURS/WATCH | HOUSING |
|-------------------------------|------------|------------|-------------|----------|
| NEHEMIAH ROBINSON | J-71842 | | | A-5-109- |

In accordance with the provisions of the Americans With Disabilities Act (ADA), no qualified individuals with a disability shall, on the basis of disability, be excluded from participation in, or be denied the benefits of the services, activities, or programs of a public entity, or be subjected to discrimination.

You may use this form to request specific reasonable modification or accommodation which, if granted, would enable you to participate in a service, activity or program offered by the Department/institution/facility, for which you are otherwise qualified/eligible to participate.

Submit this completed form to the institution or facility's Appeals Coordinator's Office. A decision will be rendered within 15 working days of receipt at the Appeals Coordinator's Office and the completed form will be returned to you.

If you do not agree with the decision on this form, you may pursue further review. The decision rendered on this form constitutes a decision at the FIRST LEVEL of review.

To proceed to SECOND LEVEL, attach this form to an Inmate/Parolee Appeal Form (CDC 602) and complete section "F" of the appeal form.

Submit the appeal with attachment to the Appeals Coordinator's Office within 15 days of your receipt of the decision rendered on this request form.

If you are not satisfied with the SECOND LEVEL review decision, you may request THIRD LEVEL review as instructed on the CDC 602.

MODIFICATION OR ACCOMMODATION REQUESTED

DESCRIPTION OF DISABILITY: " SIGNIFICANT COLLAGEN VASCULAR DISEASE / POST TRAUMATIC DEGENERATIVE ARTHRITIS IN MAJOR JOINTS; AND SUFFER FROM A " RIGHT. KNEE LATERAL MENISCAL TEAR "AND HAVE BEEN SCHEDULED FOR SURGERY. I HAVE BEEN IN THIS CONDITION FOR YEARS, AND SAID CONDITIONS DEBILITATE AND IMPAIRS MY ABILITY TO FUNCTION NORMAL (AND HAVE A VALGUS DEFORMITY OF THE (R) KNEE).

| WHAT VERIFICATION DO YOU HAVE OF YOUR DISABILITY? PLEASE SEE ATTACHED EXHIBITS: RADIOLOGY REPORT DATED |
|---|
| 9-25-03; CONSULTATION TREATMENT RECORD DATED 12-22-03; PHYSICIANS URDER DATED 2-3-05, AND 1886 3-22-01; |
| AND COMPREHENSIVE ACCOMMODATION CHRONOS (CDC 7410) DATED 2-14-07 AND 3-27-01. |

DESCRIBE THE PROBLEM: I ASSERT THAT I APPEARED BEFORE ICC (COMMITTEE) ON OF COMMITTEE SPECIFICALLY INSTRUCTED CLO WHIDMAN TO GIVE ME BACK BUT THIS HAVE NOT BEEN DONE . I WAS ONLY ISSUED A CDC 7362 SUBMIT IT TO MEDICAL STAFF. I DID AS REQUESTED, STILL NO RESULTS. NOTE: 1 AM CURRENTLY IN ADISES I ALLESING" BATTERY ON INMITE W/ WEAPON: YET COMMITTEE WAS AND IS AWARE OF THE ALLEGATIONS" MADE AGAINST ME. BUT THEY AND THE CHAIRMAN UNDERSTOOD THE NEED AND SERIOUSNESS OF MY CONDITIONS, THAT'S WHY MY CAME ->

- WAS ALLOWED TO POSSESS. WHAT SPECIFIC MODIFICATION OR ACCOMMODATION IS REQUESTED? 1) THAT I BE ISSUED MY OR A CANE, 2) THAT MY SEED COMPREHENSIVE ACCOMMODATION CHRONO DATED 3-27-06 BE RENEWED.

SINGLE. CELL STATUS DUE TO THAT A COMPREHENSIVE ACCOMMODATION CHRONO BE GENERATED FOR MY MEDICAL CONDITIONS (AUTHORITY: 1) FARMER V. BRENNAN, 511 U.S. AT 846 n. 9; CORRECTIONS V. YESKEY, 524 U.S 206 (1998) AND THE 8TH /14TH AMEND. OF THE U.S. CONSTITUTION; SAUNDERS V. HORN, 960 F. SUPP. 893 (E.D. Pa. 1997).

INMATE/PAROLEE'S SIGNATURE

9-11-07 DATE SIGNED

CAL

***0701747**

CAL

A0701747

RECEIVED CAL APPEALS SEP 14 2007

DOCTORS HOSPITAL OF MANTECA 1205 East North Street

Manteca, CA 95336 J71342

DOB: 12/01/1967

Page 1

PT: ROBINSON, NEHEMIAH MR#:

000239401 PT:

ADM: 09/25/2003

ACCT: 7474422 000203390 SONG

DIS: AUTH ID:

DHM

RM.

RADIOLOGY REPORT

CORRECTIONAL FACILITY

DATE OF SERVICE: 09/25/03.

CLINICAL DATA

Swollen knee in a patient with history of anterior cruciate ligament repair.

MRI OF THE RIGHT KNEE

COMPARISON

None.

TECHNIQUE

Scanner: General Electric 1.0T Signa MR imaging system. Sequences: Four sequences consisting of T1 weighted and T2 weighted sagittal images, T1 weighted oblique coronal images for anterion cruciate ligament, and T1 weighted fat-suppressed axial and coronal FINDINGS

There has been anterior cruciate ligament reconstruction, with femoral and tibial compression screws in place. The reconstructed * ligament demonstrates no evidence of recurrent tear. Posterior cruciate ligament is intact. The medial meniscus is intact. The ferromagnetic artifacts from the compression screws partially degrade the image quality of the lateral meniscus. Its posterior horn has a foreshortened appearance and a small tear at its inner margin. In addition, there is probable bucket-handle tear of the posterior horn as well. The patellar cartilage surface is normal. Minimal chondromalacia of the medial knee compartment and moderate chondromalacia of the lateral compartment is present with rather poor visualization. There is a stage II osteochondritis desiccans (8 mm) involving the lateral femoral condyle. Collateral ligaments and patellar retinacula are intact. Patellar and quadriceps tendons are normal. Ganglion cyst or abnormal bursal distension is not seen. IMPRESSION

1. Status post anterior cruciate ligament reconstruction without

Document 38-4 Filed 08/11/2008 Case 3:08-cv-00161-H-BLM Page 24 of 52 A 0 701747

RECEIVED CAL APPEALS SEP 14 2007

DOCTORS HOSPITAL OF MANTECA PT: ROBINSON, NEHEMIAH 1205 East North Street MR#: 000239401 DHM Manteca, CA 95336 PT: 2 RM: ADM:

09/25/2003 DIS: J71342 ACCT: 7474422 AUTH ID:

DQB: 12/01/1967 000203390 SONG

Page 2 RADIOLOGY REPORT

2. Lateral meniscal tear.

3. Osteoarthritis and stage II osteochondritis desiccans of the lateral femoral condyle and mild bone marrow contusion of the lateral tibial plateau.

CS:m7 D. 09/25/2003 2:48 P T. 09/25/2003 9:01 P JOB_#:000203390 DOCUMENT # 1142491

CHULL SONG, M.D.

Not Authenticated until electronically signed.

Administratively Authenticated by FRANK HARTWICK, M.D. 09/26/2003 13:33

| Case 3:08-cv-00161-H-BLM Document 38-2 Doctors Hospital Box 191 Of Manteca APPEALS SEP 14 2007 Inteca CA 95336 Tenet California PROGRESS NOTES AMBULATORY CARE CONSULTATION TREATMENT RECORD | Filed: 08/11/2008 Page 25 of 52 CAL CO ORS HO MITAL FAMIECA CAL CO ORS H |
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| CONSULTATION/TREATMENT REPORT: | 1 1 |
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| 2003 + | T (COST) |
| do everaco the | se Swell f. |
| MRI report. Acting them. Per op report. L Jebulid. A+ ++ Cortison residen | Half policy of policy of the soul mineral |
| RECOMMENDATIONS/PLAN: SEE 18 SEE 19 SEE 19 | HOOPER D.O. HYSICIAN & SURGEON EOARD CERTIFIED AOBFP |
| DIAGNOSIS: PAC (100 0) | 10 |
| | PROVIDER SIGNATURE |
| 50165 (12/01) | |

Case 3:08-sy-pode 14 HPLAN Deciment 38-4 RECEIVED CAL APPEALS SEP 14 2007

File(1)08/11/2008 Page 26 of 52

B0501996

NOTE: SEND COPY OF PHYSICIAN'S ORDER FOR MEDICATION TO PHARMACY AFTER EACH ORDER IS SIGNED.

Problem # Physician's Order and Medication (Orders must be dated, timed, and signed.) Order Date Time ALLERCIES: INSTITUTION ROOMAVING CDC NUMBER, NAME (LAST, FIRST, MI) -Ćonfidential client information See W & I Code, Sections 4514 and 5328 ROSI NSON, 12/01/67 PHYSICIAN'S ORDERS CDC 7221 (2/00) STATE OF CALIFORNIA OSP 00 35617 DEPARTMENT OF CORRECTIONS

RECEIVED CAL APPEALS SEP 14 2007

NOTE: SEND COPY OF PHYSICIAN'S ORDER FOR MEDICATION TO PHARMACY AFTER EACH ORDER IS SIGNED.

| | , | | TO PHARMACY AFTER EACH ORDER IS SIGNED. |
|------------|----------|--------------|---|
| Order Date | Time | Problem # | Physician's Order and Medication (Orders must be dated, timed, and signed.) |
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PHYSICIAN'S ORDERS

CDC 7221 (2/00) STATE OF CALIFORNIA

OSP 00 35617

DEPARTMENT OF CORRECTIONS

RECEIVED CAL APPEALS SEP 14 2007

STATE OF CALIFORNIA

COMPREHENSIVE ACCOMMODATION CHRONO

INSTRUCTIONS: A physician shall complete this form if an inmate requires an accommodation due to a medical condition. Circle P if the accommodation is to be permanent, or T if the accommodation is to be temporary. If the accommodation is temporary, write the date the accommodation expires on the line. A new form shall be generated when a change to an accommodation is required or upon renewal of a temporary accommodation. Any new form generated shall include previous accommodations, if they still apply. Chronos indicating permanent accommodations shall be reviewed annually. This form shall be honored as a permanent chrono at all institutions.

| To vie wed dimedity. This form si | tan be nonored as a perma | ment chrono at an institutions. | | |
|---|-------------------------------|--------------------------------------|-------------|------------------|
| A. HOUSING | | | | |
| None | | Bottom Bunk | | P/T |
| Barrier Free/Wheelchair Access | P/T | Single Cell (See 128-C date: | | P/T |
| Ground Floor Cell | P/T | Permanent OHU / CTC (circle one) | | P/T |
| Continuous Powered Generator | P/T | Other | | |
| B. MEDICAL EQUIPMENT/S | UPPLIES | | | |
| None | | Wheelchair: (type) | | P/T |
| Limb Prosthesis | P/T | Contact Lens(es) & Supplies | | P/T |
| Brace | P/T | Hearing Aid | | P/T |
| Crutches | P/T | Special Garment: | 'a | |
| Cane: (type) | _ P/T | (specify) | | P/T |
| Walker | P/T | Rx. Glasses: | | P/T |
| Dressing/Catheter/Colostomy Suppli | ies P/T | Cotton Bedding | 1 | P/T |
| Shoe: (specify) lenus style | | Extra Mattress | | P/T |
| Dialysis Peritoneal The Which we | d) P/T | Other | | P/T |
| C. OTHER | | | | |
| None | • | Therapeutic Diet: (specify) | 1 | P/T |
| Attendant to assist with meal access and other movement inside the instit | | Communication Assistance | | P/T |
| Attendant will not feed or lift the inmator perform elements of personal hygier | • | Transport Vehicle with Lift | | P/T |
| Wheelchair Accessible Table | P/T | Short Beard Other Waist restraints (| | P/T <u> </u> |
| D. PHYSICAL LIMITATIONS | TO JOB ASSIGNMENT | | 1 | 0 , , , , |
| Based on the above, are there any ph | ysical limitations to job as: | signments? Yes No | | · · · |
| If yes, specify: | | | | |
| INSTITUTION O | COMPLETED B | Y (PRINT NAME) | TITLE | |
| HEALKALTECOF | 1 3 4 | u M Maker En | | NI |
| SIGNATURE WAS ELGZES | DATE 3/22/0 | CDC NUMBER, NAME (LAST, FII | RST, MI) A | ND DATE OF BIRTH |
| HEMICMO SIGNATURE MALOU CALLON SPAN FOR LEV | M CINO 3/27/0 | Robinson | N | |
| (CIRCLE ONE) APPROVED DENI | IED V | J 713 | , 42 |) |
| COMPREHENSIVE ACCOMMOI | DATION HOUSING | Officer 21 10 | , - 22 / | |
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CAL

STATE OF CALIFORNIA

A 0 7 SPARTMENT OF CORRECTIONS COMPREHENSIVE ACCOMMODATION CHRONO

INSTRUCTIONS: A physician shall complete this form if an inmate requires an accommodation due to a medical condition. Circle P if the accommodation is to be permanent, or T if the accommodation is to be temporary. If the accommodation is temporary, write the date the accommodation expires on the line. A new form shall be generated when a change to an accommodation is required or upon renewal of a temporary accommodation. Any new form generated shall include previous accommodations, if they still apply. Chronos indicating permanent accommodations shall be reviewed annually. This form shall be honored as a permanent chrono at all institutions.

| <u> </u> | | |
|---|---------------------------------------|----------------------------|
| A. HOUSING | | |
| None | 4. Bottom Bunk | P(T) -/5/08 |
| 1. Barrier Free/Wheelchair Access P/T | 5. Single Cell (See 128-C date:) | $P/T = \frac{\sqrt{7}}{2}$ |
| 2. Ground Floor Cell P(T) | 6. Permanent OHU / CTC (circle one) | P/T |
| 3. Continuous Powered Generator P/T | 7. Other | |
| B. MEDICAL EQUIPMENT/SUPPLIES | | |
| None | 16. Wheelchair: (type) | P/T |
| 8. Limb Prosthesis P/T | 17. Contact Lens(es) & Supplies | P/T |
| 9. Brace Noomenchyme PID 2 | 18. Hearing Aid | P/T |
| 10. Crutches P/T | 19. Special Garment: | |
| 11. Cane: (type) · Struct P/(T) 2/ | (specify) | P/T |
| 12. Walker P/T | / 20. Rx. Glasses: | P/T |
| 13. Dressing/Catheter/Colostomy Supplies P/T | 21. Cotton Bedding | P/T |
| 14. Shoe: (specify) P/T | 22. Extra Mattress | P/T |
| 15. Dialysis Peritoneal P/T | 23. Other | P/T |
| C. OTHER | | |
| None | 26. Therapeutic Diet: (specify) | P/T |
| 24. Attendant to assist with meal access P/T | | |
| and other movement inside the institution. | 27. Communication Assistance | P/T |
| Attendant will not feed or lift the inmate/patient or perform elements of personal hygiene. | 28. Transport Vehicle with Lift | P/T |
| | 29. Short Beard | P/T |
| 25. Wheelchair Accessible Table P/T | 30. Other | P/T |
| D. PHYSICAL LIMITATIONS TO JOB AS | · · · · · · · · · · · · · · · · · · · | 1 |
| Based on the above, are there any physical limitati | ons to job assignments? | 76 |
| If yes, specify: //////////////////////////////////// | 40 pashenglary & not | 7/17 |
| INSTITUTION () (G | COMPLETED BY (PRINT NAME) | TITLE |
| La gra | SUN 60 OTT | Mn |
| SIGNATURE - // 10 | DATE COC NUMBER, NAME (LAST, FIRST, | , MI) AND DATE OF BIRTH |
| | | |
| | DATE POPMSM | Kehemia, |
| APPROVED (list)the number of items approved) | 150 ml 571342 , | Nehemia, |
| DENIED (list the number of items denied) | Assignwhilet |) J-10/ |
| COMPREHENSIVE ACCOMMODATION | SPRICHTAGOR 12-1 | 0/-/17 |
| chrono Sm7 | A Distribution | 1-0-1 |

ROBINSON, NEHEMIAH V. T. CATLETT, et al USDC - SOUTHERN DISTRICT CASE NO. 08 - CV-DOI 61-H (BLM)

EXHIBIT 4

| RECEIVED CAL APPEALS OCT 24 | 2007 Location: Institution CALIE Regio | on B o O o 7 01 7 | 69 Category |
|--|---|---|--|
| INMATE/PAROLEE APPEAL FORM | 1. | 1 | |
| CDC 602 (12/87) | 2 | 2 | - A Photo Complain |
| You may appeal any policy, action or decision committee actions, and classification and staff member, who will sign your form and state v documents and not more than one additional pfor using the appeals procedure responsibly. | representative decisions, you must what action was taken. If you are r | first informally seek relief throu not then satisfied, you may sei | ion of Serious CDC 115s, classification gh discussion with the appropriate staff and your appeal with all the supporting |
| NAME | NUMBER ASSIGNME | NT . | UNIT/ROOM NUMBER |
| NEHEMIAH RUBINSON | J-71342 | | - A-5-109L |
| A. Describe Problem: PETITIONER HERE | EBY MOVES TO FILE A 15 | TAMEND. CIVIL RIGHT | 5 CITIZEN COMPLAINT |
| \$ 832.5 P.C. AGAINST " T. | • | • | |
| STATE PRISON; FOR PERJURY | | | • |
| ALLEGING THAT PETITIONER | | • | _ |
| TIMES WITH THE CANE ON F | | | |
| ST. CATLETT REFER TO THE (| • | • • | • |
| OF SUCH FALSELY SUBMITTED | | · · | • • |
| BY WYOKE MY FEDERALLY SEC | | | |
| If you need more space, attach one additional | | | |
| | | 50.116.67.13 | |
| B. Dection Requested: <u>MHERE FORE PET</u> | | | 101 100 |
| CERRECT THE CDC 128-8 DATE | | | • |
| SETHAT THIS ACT DON'T REPEAT | • | · · | the state of the s |
| LEBEL AND SLANDER AND PAIN | | | |
| Inmate/Parolee Signature: Mm. Mch | L Rahin | | Date Submitted: 9-12-07 |
| G. INFORMAL LEVEL (Date Received: |) | , | |
| Staff Response: | | | * . |
| 4 67 <u>%</u> 614 | | | |
| Sa; | | | |
| · Se | | | <u> </u> |
| | · | 0 | <u>≯</u> . ω ή |
| 0.40 | | \$ | |
| Staff Signature: | | Date Ret | turned to Inmate |
| D. FORMAL LEVEL | | 5 | S |
| If you are dissatisfied, explain below, attach so submit to the Institution/Parole Region Appe | | | |
| | 79, | | |
| | <i>S</i> | | , |
| | S | | |
| | | , | • . |
| Signature: | | | Date Submitted: |
| Note: Property/Funds appeals must be accom | npanied by a completed | | CDC Appeal Number: |
| Board of Control form BC-1E, Inmate Claim | | CAL | B07017694 |

XX.

80201208

Case 3:08-cv-00161-H-BLM Document 38-4 Filed 08/11/2008 Page 32 of 52

LAL

CONT. OF A:
(DESCRIBE PROBLEM)
RECEIVED CAL APPEALS SEP 1 7 2007

B07017694

RECEIVED CAL APPEALS OCT 24 2007

AGAINST " SGT. CATLETT" FOR VIOLATIONS OF PENAL CODES SECTS. \$ 115, 118 (4) 135 132 ASSERTING IT 15 A CRIME TO SUBMITT ANY TYPE OF FALSE OR FABRICATED STATEMENT SUBMITTED ON A BOVERNMENT FORM TO A STATE AGENCY KNOWING SUCH INFORMATION TO BE FRAUDULENT FALSE OR FABRICATED AGAINST ANY PERSON OR PRISONER INTENDED SPECIFICALLY FOR PUNISHMENT WITH OUT DUE PROCESS OF THE LAW UNDER THE 14TH AMEND. 📾 PROHIBITIONS OF THE DUE PROCESS CLAUSE TO THE 14TH AMEND. OF THE U.S. CONSTITUTION. PETITIONER MOVES TO CHARGE "SGT. CATLEIT", FOR PENAL VIDLATIONS OF CRIMINAL LAW PROCEDURES P.C'S 115(9) 118 132, 135 WILL FULLY AND KNOWINGLY THAT SUCH MISCONDUCT AGAINST ANY PERSONS, CITIZENS OR PRISONERS IS AN ACT UNAUTHORIZED BY CCR TITLE IS AND BY LAW. PETITIONER 15 EXPERIENCING PAIN AND SUFFERING, AND HAVE BEEN DENIED HIS OR A WALKING CANE, BASED UPON THE CDC 128-B (GENERAL CHROND) GENERATED BY SGT. CATLETT" FABRICATED, FALSE-ALLEGATIONS THAT WAS PULICE CREATED FABRICATION TO JUSTIFY THEIR UNLAWFUL ACTIONS OF NOT ALLOWING PETITIONER TO POSSESS HIS OR A WALKING CANE KNOWING THAT PETITIONER SUFFER FROM A DISABILITY THAT DEBILITATE AND IMPAIR HIS ABILITY TO FUNCTION NORMAL TO WIT RIGHT. KNEE-LATERAL MENISCAL TEAR, AND PENDING SURGERY. CONSTITUTED CRUEL AND UNUSUAL PUNISHMENT. NO WHERE DOES IT STATE BY EITHER REPORTING EMPLOYEE THAT ALLEGELY OBSERVED THE INCIDENT ON FRIDAY AUGUST 17,2007 AT APPROXIMATELY 11:29 HOURS THAT THEY OBSERVED PETITIONER STRIKING THE OTHER INMATE NUMEROUS TIMES WITH THE CANE (AS REFERENCED IN ATTACHED AS EXHIBIT CRIME / INCIDENT REPORT LOG # CAL -FBY-07-08-0240.) (SEE ATTACHED CDC 128-B) AUTHORITY 1)

• CCR TITLE 15 \$ 3291. (9) 2) \$ 3391. (4) 3) AND \$ 3004. (4) (6) (6) AND \$ 3450 -

b) AND 5. U.S.C 5 5529 (9)(4)

\$ 3413. (a) (A) (1) (2) (C)

CAL APPEALS IS EDUT 2007 cument 38-4 Filed 08/11/2008 Page 33 of 52

NAMEDINEDICAL METALS OCT 24 2007

CDC 128-B

ROBINSON

-J-71342

On Friday, August 17, 2007, at approximately 11:29 hours Inmate ROBINSON, J-71342, was involved in an incident of Battery on an Inmate with a Weapon, as referenced in Crime/Incident Report, Log #CAL-FBY-07-08-0240. During this incident Inmate ROBINSON was observed utilizing his cane to assault another inmate, striking the other inmate numerous times with the cane. The use of Oleoresin Capsicum spray was necessary in order to quell Inmate ROBINSON's aggressive use of his cane. The cane was subsequently placed into evidence, and staff has determined that continued possession of the cane by Inmate ROBINSON would pose a grievous threat to the safety and security of staff, inmates, and the institution.

Original: Central File

cc:

Program Lieutenant

CCI

Housing Unit

Security and Investigations Unit

Inmate

T. A. CATLETT, Correctional Sergeant

Facility B

Calipatria State Prison

Dated:

08/17/07

(INFORMATIONAL - PROPERTY CONFISCATION)

GENERAL CHRON

SCREENED OUT

SEP 0 7 2007

| RECEIVED C | • | 7 2007 | Docume | [/N | \ | CAL | PARTMENT OF | | | . |
|---------------------|-----------------------------|---|-----------|-------------|--------------------|------------------|---------------------------------------|---------------------------------------|---------------|-------------------|
| PART | MALPAPATALBER COVER SHEE | ORA ZUUI | | رههر | 4 | _ | | CURRECTION | NS AND REHAE | SILITATIO DV-1 |
| CDCR 83 7 | A (REV. 10/06) | | ge 1 of & | 15 | | T LOG NUMBE | | INCIDENT DA | TE INCIDE | NT TIME |
| INSTITUTIO N | FACILITY | FACILITY LEVEL | INCIDEN | | | BY-07-08- | 0240 | 08/17/2 | 2007 11:29 | } |
| CAL SPECIFIC CRI | FBY - B yard #1 | | | ACILIT | YB · | YAR | D #1 | PROGRAM | YARD | USE O FORCE |
| Battery on ar | Inmate With a Weap | on | , - | | | CCR [| J PC ∐ N/A | GP NUMBER/S | N/A UBSECTION | Yes |
| | EFERRAL ELIGIBLE | CRISIS PE | SPONSE TE | | | 3005-c1 Fo | orce or Violence | e | | |
| | ′es 🗌 No . | | _i Yes | V No | | | MUTUAL AID | · | PIO/AA NO | OTIFIED |
| recipe that it is | DEATH AND CAUS | RELATED | INFORMA | TION (C | HECKALLIT | HAT APPLY | Yes ✓ No OR N/A) | THE OWN LONG ON | Yes | ☑ No |
| ✓ N/A | DEATH AND CAUS | E OF DEATH | | 1 7007 | OLI / BAITE | RY | TYPE OF | ASSAULT/ | BATTERY | |
| | | ٠. | • | N/ | | □ N/A | | | 2701121 | |
| | | | | 1. INM | MIE | 18 | ATTERY ON I | NMATE | • | |
| | | | | | | . | • | | • | |
| • | • | * * * * * * * * * * * * * * * * * * * | | } | | } | | | | |
| SERIOUS IN Ĵ | JRY I | NMATE WEAPON | 10 | | | | r Desc: | | | |
| ☑ N/A. | □ N/A | A.E WEAPOI | 13 | | 77 | TYPE OF W | /EAPON / SH | OTS FIRED | FORCE | |
| ₩ IN/A | 1. Other Not List | ed - | | | ☐ N/A 1. OC - M | | | | | |
| | Other Description | n: CANE | | | #Warning | : 0 #Effect: 0 | #Chemical: 1 | | • | |
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| • | | | · | | , | DE | <u> </u> | :n | ٠. | |
| | | | | . | . | KE | CEIVE | | | |
| • | | • | <i>;</i> | | 1 | | | .: | | |
| ESCAPES | | | | | | . AUC | 3 1 200 | 7 | . ' | |
| ✓ N/A | | - y- | | | ; | ,, | | | | |
| | | | | | . : | Acer | clate Warde | 2 0 | | |
| | | | | · . | | Cen | tral Operation | ons: | ,* | . • • · . |
| | | | | | 31 | | | | | |
| | | | | | | | | | | |
| CONTROLLED | SUBSTANCE | WEIGHT/ In Gran | | | | | | · | | |
| ✓ N/A | | V.C.IGH I/ III Graf | ns PRO | | STATUS | | EXCEPTION | ONAL ACTIV | ITY | |
| | | • | | · | | ✓ N/A | • | | | ٠ |
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| | | (\wedge) | M.1 | 1 | F | XTRACTION: | · · · · · · | · · · · · · · · · · · · · · · · · · · | | |
| • | | /() O | A Just | 3 (M | | N/A | | | | |
| RIEF DESCRIPT | TION OF INCIDENT (| ONE OR TWO SE | NITENIO | | | | · · · · · · · · · · · · · · · · · · · | | | |
| n August 17 | 4007 at annroxim | ataly 1120 has | | | inson 174 | 342 B2 45 | 71 - | | | |
| ith Weapon" c | on Inmate Clark, F | 176477, B4-24 | 2U, resul | Iting in | use of for | 342, 62-10 Se | /L, commit | ted "Batter | y on an Inm | nate |
| | | • | | | | | | | | |
| | | • | | | | • | | | | |
| | | | | | | | • | | | |
| OMPLETE SYNO | PSIS / SUMMARY OI | N DADT A4 | | | | | | | • | |
| | G STAFF (PRINT/TYPE) | | - | | _ | | | • | * . | |
| JOHNSON | STAFF (PHINT/TYPE) | | TITLE | | | | ID# | | BADGE # | - ; - |
| GNATURE OF BER | ORTUNE | | LCORRE | CTIONA | AL LIEUTENA | _ | 1761357 | | 53511 | |
| KI | | | | | | | INCIDENT SITE | DAT | | $\overline{}$ |
| AME OF WARDEN / | AOD (PRINT/ SIGN) | · | 00 | | | 6205 | | | 8/17/2007 | |

Case 3:08-cv-00161-H-BLM Document 38-4 Filed 08/11/2008 Page 35 of 52

| | • | | | | Ŭ | | |
|--|--|----------------|----------------------|--------------|---------------|------------|-----------------------|
| STATE OF CALFORNIA | | | 05343 | TUENT 05 | 000050710 | | • |
| CRIME / INCIDE | VT REPORT | • | V.V. | i .). | CORRECTIONS | AND REHA | BILITATION DV-1.5. |
| PART A1 - SUPP | | | | DENT LOG NUN | UMBER | | |
| CDCR 837-A1 (REV. | 10/06) | | Page 3 of 8 15 | CAL-F | BY-07-08-0 | 240 | |
| INSTITUTION | FACILITY | ···· | INCIDENT DATE | | INCIDENT TIME | | |
| CAL | FBY - B YARD #1 | • | 08/17/2007 | . | 11:29 | | • |
| TYPE OF INFORMATIC | | • : ; | | | | | |
| SYNOPSIS/SUMN | MARY OF INCIDENT SUPPLEMENTAL | INFORMA | TION AMENDE | D INFORM | MATION (| CLOSURE | REPORT |
| the head with a ca | ane and not as a result of any force b | y staff, th | nerefore a videotar | oed inter | view is unne | cessary. | |
| This incident may | he referred to the Imperial County Di | :: | | | | | |
| This incluent may | be referred to the Imperial County Di | ISTRICT ATT | orneys office for po | ossible f | elony prosed | oution. | |
| Inmate Clark was | deemed the victim of this assault, a | CDC128 | was generated ide | entifying | Inmate Clar | k and Inr | nate |
| Robinson as enen | nies. | ÷ | | | ×. | | |
| Inmate Clark state | ed that he has no housing concerns a | i and reque | ested to remain on | R facilit | / a CDC129 | 2 Puinform | antional |
| chrono was gener | ated and signed by Inmate Clark indi | cating th | is. | . D racing | y, a CDC 120 | المالمالية | |
| Inmeta Dahinaani | Z | | แนก | | | | |
| Classification Con | was medically cleared and rehoused nmittee for program and housing nee | in Admir ds | nstrative Segregat | ion, pen | ding_review | by Institu | tional |
| | | • | | | | i | |
| None of the involv | ed inmates are participants in the Me | ental Hea | alth Services Delive | ery syste | m, Disability | Placem | ent |
| Program, Develop | mental Disability Placement program | at any l | evel of care. | | • | . 1 | |
| None of the involv | ed inmates made any allegations of | excessiv | e or unnecessary f | orce. | | | |
| • | | : | | | | : | |
| All involved staπ n | ave been canvassed and advised to | submit r | eports. | | | | |
| There was no dan | hage to state or personal property as | a result | of this incident. | | | | |
| . All | | | | | ٠, | i | |
| All appropriate add | ninistrative staff have been notified o | of this inc | ident. | | | i i | |
| | | | | · | | | |
| | | | • | `- | | | • |

| CHECK IF NARRATIVE IS CONTINUED ON A | ADDITIONAL A1 | | | | |
|--|-----------------------|------------------|------------------|-------------------|--|
| NAME OF REPORTING STAFF (PRINT/TYPE) R JOHNSON | TITLE: CORRECTIONA | L LIEUTENANT | 1761357 | 53511 | |
| SIGNATURE OF BEST ATING AFF | 0 | PHONE EX 6205 | T. INCIDENT SITE | DATE 8/17/2007 | |

Case 3:08-cv-00161-H-BLM

Document 38-4

File (LANS/11/2008 Page 36 1 7 6 9

RECEIVED CAL APPEALS SEP 1 7 2007

✓ N/A

Reason For Death

NAME/ LOCATION OF HOSP/ FACILITY

| WEOCIAED OUT IN LEW | | , 1. (. | 2001 | | | | | | | | • | | | | |
|---|--------------|------------------|---------------|-------------|--------------|--------------|---------------------------------------|---|---|--------------|------------------|------------------|-----------------|---|--------|
| STATE OF CALFORNIA CRECEVENCE LABOR PART B2 - STAFF | | е₽¥. | <u>4</u> 2007 | · . | | | | | DE | PARTME | NT OF | CORRECTI | ONS AND RE | HABILITATI DV-1. | |
| CDCR 837-B2 (REV. 1 | | | | | | | | | | | _ | | n 15 | | _ |
| INSTITUTION | FACILI | TV | | | | · · · · | | | · | | | age 5 of | <u>a ()</u> | | • |
| CAL | | | ARD #1 | | | , | | | 1 . | NT LOG | | | | | |
| OAL | ********* | - 0 17 | 1RD#1 | dobación | | | | | CAL- | FBY-0 | 7-08 | -0240 | <u> </u> | | |
| | | | | | S | TAFF | (ENTIRE | HEET) | | | | | | | |
| NAME: LAST | | 1 | IRST | | | MI | TITLE | | | | SEX | ETHNICIT | / RDO'S | *************************************** | |
| NEAL PARTICIPANT | | BADGE | <u> </u> | | 15.4 | | CORRE | | AL SERGE | | М | BLA | <u>_</u> | <u> </u> | |
| PRIMARY | , | 64571 | . <i>#</i> | ٠. | 1D# | 02931 | | | POST ASSI | iĢΝ# | ľ | POSITION | | | |
| N/A DESCRIPTION | OF IN | | LOCATIO | N AND C | AUSE: | | | | 120153 | . | | YARD SE | RGEANT | ··· | |
| | | | | | | .÷ | | • | | , | | | | • | |
| | _rs ⊃ | المستر ساله | : : | | | | • | : | • | | | | | | |
| | | | | , | | | | | | • | | | | | • |
| N/A NAME/ LOCATIO | NOEL | 000/54 | 011.004 | Cal N/A | | - | | DEATER | AND OF FACE | · | | | | | |
| Reason For Death | | | · | | USED 1 | TREATA | | IOSPITA | AND RELEASE LIZED | | FOR Yes | | PROCESSI Yes | ED EVIDENO | SE |
| Reason For Death | | | | | | | us Injury | No | O Yes | oc oc | | : · | | ٠. | |
| NAME: LAST | * | ΙF | IRST | | | М | TITLE | 000000000000000000000000000000000000000 | | *********** | oodia | Lexuuses | . | *************************************** | 900000 |
| DAVILA | | \ | | • | ٠. | "" · | | CTIONA | L OFFICE | R. | SEX M | ETHNICITY HIS | RDO'S | | |
| PARTICIPANT | | BADGE | # | | ID# | ' | ' | | POST ASSI | | | OSITION | - | | |
| RESPONDER . N/A DESCRIPTION | LOE IN | 69156 | | | 1763 | 3708 | | | B REC OF | FICER | 6 | 20624 | | | |
| N/A DESCRIPTION | I OF IN | iuries, | LOCATIO | N AND CA | WSE: | | | | | • | | | | | |
| | | | | | | | | | | | | | : • | | ٠, |
| | | , | | | • | | 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 | | | | ٠. | | | | |
| | 1 | · · · | | | · | | | ٠ | | | | · · | : | | |
| N/A NAME/ LOCATION | OF HO | OSP/ FA | CILITY | ✓ N/A | | | | REATED A | ND RELEASE | | FOR | | PROCESSE | D EVIDENC | Έ |
| · | | | | = | | REATM | IENT 🔲 H | OSPITAI | LIZED | | | ✓ No | ☐ Yes | ✓ No | |
| Reason For Death | | | | DECE | ASED | DATE | <u> </u> | | · · | TYPE | E OF F | ORCE: | * | | |
| | · : | <u> </u> | , | Is There | ASCA | Seriou | ıs Injury | ● No | O Yes | , | | • | • • • | | ٠. |
| NAME: LAST | | FI | RST | | ********** | Mi | TITLE | | *************************************** | | SEX | ETHNICITY | RDO'S | ************* | dayaya |
| RIVAS | · . | · J | | • . | | , | CORREC | TIONA | LOFFICE | | | HIS | s/s | | |
| PARTICIPANT RESPONDER | | BADGE | # | | ID:# | : | | | POST ASSIG | SN# | P | OSITION | | | |
| N/A DESCRIPTION | | 45867 URIES 1 | OCATION | I AND CA | 1763 | 85 | · · · · · · · · · · · · · · · · · · · | 16 | 320636 | · · · · | В | YARD GUN | NER | · · | |
| | | | | | - OL. | | • | | | | | | | | .:: |
| | | | | | | | | | | | | ٠. | | • | |
| • | | | | | | | : | | | | | | | • | |
| . * | | | | | | | | | | | | : | | . • | |

TREATED AND RELEASED

No ○ Yes

REFUSED TREATMENT HOSPITALIZED

USED FORCE

Yes V No

TYPE OF FORCE:

PROCESSED EVIDENCE

☐ Yes 🗹 No

✓ N/A

DECEASED DATE Is There ASCA Serious Injury

B0701769 M

| STAT RECEIVED GA | LAPPEALS OCT 24 | 2007 | | | DES | PARTMENT | OF CORRE | CTIONS AND | REHABILITATION |
|---------------------------------------|----------------------|---------------------|---------------|-------------------------|-----------------|-----------------|---------------------------|---------------------------------------|----------------|
| PART C - STAI | | | | | | LINIC | CIDENTI | OG NUMBE | |
| CDCR 837-C (REV | • | | | Page 1 | of1 | 121 | | | |
| NAME: LAST | . 10/00) | | FIRST | 1 . 232 | | | | 758024 | |
| NEAL | • | | · · | | | MI | | 1 | INCIDENT TIME |
| POST# | POSITION | YEARS | OF SER | VICE | T DATE | OF REPO | 8-17-0 | | 1129 HRS |
| 120153 | B-YARIS SGT. | | YR. | O .MO. | ł | • | | ATION OF I | |
| RDO's DUTY H | | N OF CRIME / INCID | | 0 | 8-17- | 07 | 13-44 | <u>ルプ^ザl ナ</u> SECTION / | AND BALL COURT |
| C\$00-/60 | | NIH W/WPA | | 1-1- | - | | l l | 25 (C) | |
| YOUR ROLE | | FACE S-STAFF, V-VIS | TOR. 0-0 | <u>> / ン</u> THER | INMATES | IPPEEACE | | | W-WITNESSES |
| RIMARY | NEAL C | | | | | H7647 | | | |
| RESPONDER | | | v | · R | CIGINI SOI | 7 7/34 | 2 CELL B | -21071 | (<u>s</u>) |
| ∰ WITNESS ∰ VICTIM | | | | | | | | | |
| CAMERA | | | | | | | | | |
| SCRIBE | | | | _ | | : | .] | | |
| FORCE USED BY YOU | | FORCE USED | BY YOU | TYPE OF WE | APON / S | HOTS FIRE | D / FORC | E | |
| ₩ WEAPON | N/A N/A | WEAPON: | WARN | ING EFFECT | | CHER: | EFFECT | #: CHE | MICAL/ TYPE: |
| PHYSICAL | FORCE: | | | | 37 💹 L8 🐼 L8 | ⁷ MM | | × | Α |
| ☑ CHEMICAL | EXPANDABLE BA | TON BONANA | - | | | MM [.] | | — <u> </u> | |
| ₩ NONE | I PHYSICAL FORCE | sHOTGU | N | | _ = | MM MULT | ı · | @ cr | |
| FORCE OBSERVED BY YOU | | | 1 | | ─ H£ | FWRS | | @ cs | |
| .WEAPON | | | | | | • | . • | . | |
| PHYSICAL | EVIDENCE I | ESCRIPTION . | | EVIDE | NCE DESC | CRIPTION | | BIO | PPE |
| CHEMICAL NONE | ∭ N/A . | | . 🛭 | N/A | | | | HAZARD | |
| NONE EVIDENCE | , | | | | | • | | Yes | Yes |
| COLLECTED BY | STATE ISSUED CA | عرا | \mathcal{D} | hail in | 1 pt L n. #E | 11/20 | Col | ĭ No | I № No |
| 🔀 Yes | DESCRIPTIO | N OF INJURY | | LOCATION TR | EATED | | UID EXPO | SURE | SCIF 3301/3067 |
| ₩ No ` | N/A | , | ™ | : (HOSPITAL / C | LINIC | ■ BODI | | . N/A | COMPLETED |
| REPORTING STAFF INJURED | | | | | | | NOWN | (SE) INC | ☐ Yes |
| ∭ Yes | | | | . | | | , | | Ø No |
| ₩ No | | | | | ·· | _ ∭ отн | =K | | |
| NARRATIVE: | | | • . | | - | | | 1,. | |
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Case 3:08-cv-00161-H-BLM

Document 38-4

Filed 08/11/2008 Page 38 of 52 **7 0 1 7 6 9**

RECEIVED CAL APPEALS SEP 1 7 2007

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STATE OF CALIFORNIA CRIME / INCIDENT REPORT PART C2- REVIEW NOTICE

CDCR 837-C2 (Rev. 07/05)

PAGE

DEPARTMENT OF CORRECTIONS AND REHABILITATION

REPORTING EMPLOYEE NAME (PRINTITYPE)

INCIDENT LOG NUMBER

RETURN TO: T. A. CATLETT, Correctional Sergeant

DATE OF INCIDENT

LAST: DAVILA

CAL-FBY-07-08-0240

08/17/07

Your report concerning the above referenced incident has been reviewed and the following information is required:

| | the state of the s | in the state of th | manon io required. |
|----------------|--|--|--------------------|
| X Prepare a CD | CR 837-C1 Supplement report | t clarifying the issues listed below: | |
| Prepare a CD | CR 837-C1 Supplement repor | t providing additional information regarding the issues | listed below: |
| Prepare a CD | CR 837-A1 Supplement report | t clarifying the issues listed below: | |
| Prepare a CD0 | CR 837-A1 Supplement report | to ammend the information regarding the issues listed | i below: |
| DUE BY: _ | 08/22/07 | RETURN TO T. A. CATLETT. Correct | ional Sergeant |

Did you conduct a search of the Holding Cell prior to placing Inmate Clark, H76477 inside?

CHECK IF CONTINUED ON ADDITIONAL PART C2

NAME OF REVIEWER (PRINT)

T. A. CATLETT

TITLE

CORR SGT

SIGNATURE

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| CDCR 837-C (REV | | | Page 19 | of 15 | ł | | · |
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| FORCE USED BY YOU | | · | - TYPE OF WEAI | PON / SHOTS | FIRED / FOR | RCE | |
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| INJURED | | | • • | | UNKNOWN | | ₩ Yes |
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Document 38-4

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| PART C1- SUPPLEMENT CDCR 837-C1 (Rev. 07/05) NAME: LAST TORRENT TORRENT TORRENT TORRENT TORRENT CAL-FBY-07-08-0240 MI J. CONTINUATION OF REPORT CAL-FBY-07-08-0240 MI ADDITIONAL INFORMATION | STATE OF CALIFORNIA CRIME / INCIDENT REPORT | | | DEPARTME | NT OF CORRECTIONS AND REHABILITATION |
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| NAME LAST TORRENT TYPE OF INFORMATION: CONTINUATION OF REPORT CONTINUATION OF REPORT CONTINUATION OF REPORT CONTINUATION CO | PART C1- SUPPLEMENT CDCR 837-C1 (Rev. 07/05) | | PAGE 15 | OF 15 | |
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DEPARTMENT OF CORRECTIONS

| OR UNUSUAL OCC | | | | : | |
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| NAME OF INSTITUTION | FACILITY/UNIT | REASON FOR REPORT (circle) | INJURY | ON THE JOB INJU | 10.71 |
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| INMATE ONLY | NAME LAST | γ , N | 7-71347 | 152-107 | 1 |
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| THIS SECTION FOR VISITOR ONLY | NAME LAST | FIRST | MIDITLE | DOB | OCCUPATION . |
| 7,017,017,017,017 | HOME ADDRESS | CITY | STATE | ZIP | HOME PHONE |
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| d com | ments: | | 1 | | |
| V | <u>.</u> | | | | |
| INJURIES FOUND? • Y Abrasion/Scratch | ES/NO | | | | |
| Active Bleeding | | | | | |
| Broken Bone | | \checkmark | () | | |
| Bruise/Discolored Area Burn | 4 5 | | () | | |
| Dislocation | 6 / | | | (| 7 |
| Dried Blood | 7 / | ☆ | | • | 1 |
| Fresh Tattoo | 8 / // | | | للممسد | |
| Cut/Laceration/Slash O.C. Spray Area | 9 10 | | | | |
| Pain | 10 111 | 1 / 1 | J41 \ | | |
| Protrusion . | 12 | ~ | | [] | |
| Puncture | 13 | / / | / / / | - 1 1 | |
| Reddened Area | 14 | $I \wedge I$ | | | / / |
| Skin Flap Swollen Area | 15 16 | | | I/I | |
| Other 2 | 17 | 1/1 | | | |
| | | \ | VIII | 777 | $\int \int $ |
| | 18 | \ W \ | 1 1 1 1 1 1 1 | and K | |
| | 19 \frac{1}{27} / j7 | | / / " | | The state of the s |
| O.C. SPRAY EXPOSURE? | YES/NO (3) | | / | \ | |
| DECONTAMINATED? | YES/NO | 1 1/ | | | |
| Self-decontamination instructions given? | YES/NO | (| \ | }/ { | /) { |
| Refused decontamination? | YES / NO | \ . | ΛI | 1/3 | |
| Q 15 min. checks | | Λ | | ¥ 1 | |
| Staff issued exposure packet | | / } | | A f | 1 6 |
| RN NOTIFIED/TIME | PHYSICIAN NOTIFIED/TIM | E | $2\langle \cdot \rangle$ | | 11) |
| TIME/DISPOSITION | IPH yarg | | A | | |
| | I = I | REPORT COMPLETED BY | TITLE (PRINT AND SIGN | 4) | BADGE # IRDOs |

Document 38-4

Filed 08/11/2008 Page 43 of 52

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OG TO RECIEDE A STATE OF CALIREGELVED CAL APPEALS OCT 24 2007

RULES VIOLATION REPORT

DEPARTMENT OF CORRECTIONS

| J-71342 RED | | | | ATE INS | ST. | HOUSING NO. | LOG NO. |
|----------------------|--------|--------------------|---------|----------|---------|-------------|-----------|
| 121747 ECD5 | EN. | (IK) | | C# | LW | 22-177. | 33-07-520 |
| VIOLATED RULE NO(S). | SPECII | FIC ACTS | | LOCATION | | DATE | TIME |
| CC 305 (c) | BATT | eay on an invair w | V.EARTH | BELB | varo at | 08-17-07 | UZ ES. |

On Friday, August 17, 2007, at approximately 1129 hours, while performing my duties as "E" Observation booth Officer, 1 observed Two (2) irmates later identified by responding yard staff as Immate REDISON, -71342, EQ-1071, and Immate CLARK, H-76477, R4-242L. Roth immetes were facing each other on the yard #1 Handbell Court looking east from observation, Immate KEDRIV had a case in his hards and was swincing it at Immate CLARV who had both his hards uncleaned into fists. "Both immates were trying to strike each other." I then verbally ordered the yard via the P.A. system all invates complied with the exception of the combatants. I savised yard staff of the disturbance on the van A hardwall court. Innate REMESON was wielling the case. At this time responding staff arrived and placed both innates in restraints without further incident. Upon Medical evaluation by medical staff it was determined that Innat AMK received a laceration with selling to the left side of his best, consistent with being bluigeoned with the care.

Insete REMSIN is not a participant of the Mahtel would Berviese Delivery System (M.H.S.D.S.) Come. Imate REMEN is were of this report.

| REPORTING EMPLOYEE | (Typed Name and Signature) | | | | 0.475 | | T | | r | |
|-----------------------------------|----------------------------|-------------|--|--|-------------|--------------------|---|--------------|---------|-------------|
| | eractional Office | : //- | ومرسون المتعلق | Marine and Survey of the Surve | DATE | | ASSIGNMENT | | RDO'S | |
| T. CATETT, | · Sandar Sandar | | DATE | 1/67 | DATE | SEGREGATED PEND | DING HEARING | LOC. | | |
| CLASSIFIED ADMINISTRATIVE SERIOUS | OFFENSE DIVISION: | DATE | CLASSIFIE | D BY (Typed N | ame and Sig | and property | or and a second | HEARING REFE | | ☐ FC |
| | | ő co | OPIES GIV | EN INMA | TE BEFOR | E HEARING | | | | |
| CCC 115 | BY: (STAFF'S SIGNATURE) | , . | · | DATE - | TIME | TITLE OF SUPPLEM | ENT-72 VEVS | A Rightson | | 715-7 |
| Incident report Log number: | BY: (STAFF'S SIGNATURE) | ., \0 | (4) | DATE 7 | TIME | BY: (STAFF'S SIGNA | ATURE) | 10-7 | DATE | IME A DO |
| HEARING | | | | | | | | N. | <u></u> | |

| REFERRED TO CLASSIFICATION BPT/NAEA | | | | • | . 4 |
|--|-------------|----------------------|--|------|------------|
| ACTION BY: (TYPED NAME) | | - | SIGNATURE | DATE | TIME |
| | | ٠, | | | |
| REVIEWED BY: (SIGNATURE) | | DATE | CHIEF DISCIPLINARY OFFICER'S SIGNATURE | DATE | |
| > | | | > | | |
| | | BY: (STAFF'S SIGNATU | JRE) | DATE | TIME |
| COPY OF CDC 115 GIVEN INMATE AFTER HEARING | | • | | | |
| CDC 115 (7/88) | | · <u>·</u> | | | |

RECEIVED CAL APPEALS OCT 24 2007

CALIPATRIA STATE PRISON

Calipatria, California

B0701769

FIRST LEVEL APPEAL RESPONSE

NAME:

INMATE ROBINSON, J71342

APPEAL LOG #:

CAL-B-07-01769

INTERVIEWED:

BY R. JOHNSON, CORRECTIONAL LIEUTENANT

APPEAL ISSUE:

PROGRAM

APPEAL DECISION:

PARTIALLY GRANTED

APPEAL RESPONSE: In consideration of your appeal, a review of the appeal and its attachments was conducted. The California Code of Regulations (CCR) and all applicable laws and procedures were also considered.

In your appeal you claim that T. Catlett, Correctional Sergeant committed perjury and fraud by falsifying a CDC 128B, Informational Chrono, alleging that you were observed striking another inmate numerous times with your cane. You claim to be experiencing pain and suffering due to being deprived the use of your cane.

In your appeal, you request that the CDC 128B be inspected and corrected, Sergeant. Catlett be counseled, and that you be compensated \$5000.00 for libel, slander and pain and suffering.

On October 13, 2007, R. Johnson, Correctional Lieutenant, interviewed you regarding your Appeal Log #CAL-B-07-01769 during the interview you stated: "Maintain action requested."

A review was conducted of all pertinent documents, these documents reflect that an incident occurred in which you were observed using your cane to strike another inmate and the inmate had sustained injuries consistent with being struck with the cane. You were charged with Battery on inmate with a Weapon (Cane). The cane was secured as evidence as with all confiscated weapons. The CDC 128B is the document utilized to identify the disposition of the evidence and the source document to provide information related to the safety and security of the institution, staff and inmates. Additionally, you have been provided a replacement cane to use.

Based on the above, your appeal is Partially Granted at the First Level of Review. Partial granting is due to the CDC 128B being reviewed.

The appellant is advised that this issue may be submitted for a Second Level of Review if desired.

R. Johnson

Correctional Lieutenant Calipatria State Prison *10/16/07* Date State of California

Department of Corrections and Rehabilitation

Memorandum

Date

NOV 14 2007

To

INMATE ROBINSON, J71342

Subject: SECOND LEVEL APPEAL RESPONSE LOG NO.: CAL-B-07-01769

ISSUE: PROGRAM

it is your position that Correctional Sergeant T. Catlett, committed perjury and fraud in falsifying and fabricating false allegations in a CDC 128-B, Informational Chrono dated August 17, 2007, alleging that you were observed striking another inmate numerous times with your cane. This CDC 128-B was used as documentation to support removing the cane from your possession as a safety and security measure. You further note in your appeal that you are experiencing pain and suffering due to being denied your walking cane based on the above noted documentation.

You are requesting that the CDC 128-B dated August 17, 2007, be inspected and corrected, that Sergeant Catlett be counseled, and that you be compensated \$5,000.00 for libel, slander and pain and suffering.

<u>INTERVIEWED BY:</u> Correctional Lieutenant R. Johnson on October 13, 2007, in preparation for the First Level Appeal Response.

<u>REGULATIONS:</u> In consideration for your appeal, a review of the appeal and its attachments was conducted. The California Code of Regulations (CCR) and all applicable laws and procedures were also considered.

DISCUSSION:

This appeal was partially granted at the First Level of Review in that the CDC 128-B dated October 13, 2007, was reviewed by Correctional Lieutenant Johnson. In that response, Lieutenant Johnson noted that you were provided a replacement cane. In your Second Level Review Request you note that Lieutenant R. Johnson deliberately indifferently misstated the facts of the evidence and falsified and fabricated allegations in his attached CDCR 837-A, A1 Cover Sheet/Supplemental Report dated August 17, 2007, which set in motion the act committed by Sergeant Catlett. For this reason, you note your disagreement with Lieutenant R. Johnson investigating or reviewing this appeal at the First Level of Review.

Case 3:08-cv-00161-H-BLM Document 38-4 Filed 08/11/2008 Page 46 of 52 INMATE ROBINSON, J71342 CAL-B-07-01769

Page 2

A review of Crime/Incident Report, Log #CAL-FBY-07-08-0240 dated August 17, 2007, reveals that you were observed swinging your cane attempting to strike another inmate. Nowhere in the written reports for this incident is it documented that you struck the other inmate numerous times with your cane, as documented in the CDC 128-B dated August 17, 2007. Therefore, the CDC 128-B dated August 17, 2007, has been revised (see attached) to accurately reflect the circumstances that led to your cane being confiscated.

DECISION:

The appeal is Partially Granted at the Second Level of Review in that the CDC128-B dated August 17, 2007, has been revised to accurately reflect the circumstances that led to your cane being confiscated.

The appellant is advised that this issue may be submitted for a Director's Level of Review if desired.

T. OCHOA
Chief Deputy Warden
Calipatria State Prison

Mesould!

Filed 08/11/2008 Case 3:08-cv-00161-H-BLM Document 38-4 Page 47 of 52

> B0701769 CAL

NAME and NUMBER **ROBINSON**

J-71342

CSP-CAL IV

CDC-128-B(Rev.4/74)

On Friday, August 17, 2007, at approximately 1129 hours, Inmate ROBINSON, J-17342, was involved in an incident of Battery on an Inmate with a Weapon, as referenced in Crime/Incident Report, Log #CAL-FBY-07-08-0240. During this incident Inmate ROBINSON was observed attempting to utilize his Cane to assault another inmate. The use of Oleoresin Capsicum spray was necessary in order to quell Inmate ROBINSON's aggressive attempt of using his Cane. The Cane was subsequently placed into evidence, and staff has determined that continued possession of the Cane by Inmate ROBINSON could possibly pose a grevous threat to the safety and security of staff, inmates and the institution.

Inmate ROBINSON is aware of this report.

Orig: Central File

cc: Program Lieutenant

CCI

Housing Unit

Security and Investigations Unit

Inmate

T.A. CATLETT, Correctional Sergeant

Facility "B" Program Sergeant

Calipatria State Prison

DATE 08/17/07

(INFORMATIVE)

GENERAL CHRONO

STATE OF CALIFORNIA
DEPARTMENT OF CORRECTIONS AND REHABILITATION
INMATE APPEALS BRANCH
P. O. BOX 942883
SACRAMENTO, CA 94283-0001

DIRECTOR'S LEVEL APPEAL DECISION

Date:

MAR 0 5 2008

In re:

Nehemiah Robinson, J71342 Calipatria State Prison P.O. Box 5002 Calipatria, CA 92233

IAB Case No.: 0715870

Local Log No.: CAL-07-01769

This matter was reviewed on behalf of the Director of the California Department of Corrections and Rehabilitation (CDCR) by Appeals Examiner P. D. Vera, Facility Captain. All submitted documentation and supporting arguments of the parties have been considered.

- I APPELLANT'S ARGUMENT: It is the appellant's position that Correctional Sergeant (Sgt.) T. Catlett committed perjury and fraud in falsifying and fabricating false allegations that the appellant was observed striking the other inmate numerous times with his cane on August 17, 2007. He claims that he is experiencing pain and suffering and has been denied his walking cane based upon the CDC Form 128-B, General Chrono, authored by Sgt. Catlett. The appellant requests that authorized staff inspect and correct the CDC 128B dated August 17, 2007, authored by Sgt. Catlett. The appellant also requests for Sgt. Catlett to be counseled. He further requests to be compensated \$5000.00 for libel, slander and pain and suffering.
- II SECOND LEVEL'S DECISION: The reviewer found that the appellant's appeal was partially granted at the First Level of Review in that the CDC 128-B dated October 13, 2007, was reviewed by Correctional Lieutenant (Lt.) Johnson. In that response, Lt. Johnson noted that the appellant was provided a replacement cane. A review of the Crime Incident Report Log #Calipatria State Prison (CAL)-FBY-07-08-0240 dated August 17, 2007, reveals that the appellant was observed swinging his cane attempting to strike another inmate. Nowhere in the written reports for this incident is it documented that the appellant struck the other inmate numerous times with his cane, as documented in the CDC 128-B. Therefore, the CDC 128-B dated August 17, 2007, was revised to accurately reflect the circumstances that led to the appellant's cane being confiscated. The appellant's appeal is partially granted at the Second Level of Review (SLR) in that the CDC 128-B dated August 17, 2007, has been revised to accurately reflect the circumstances that led to the appellant's cane being confiscated.

III DIRECTOR'S LEVEL DECISION: Appeal is denied.

A. FINDINGS: The examiner reviewed the issues of the appellant's appeal and reaffirms the institution's examination and conclusions as addressed within the SLR. The appellant's CDC 128-B dated August 17, 2007, was revised to reflect the circumstances that led to the appellant's cane being confiscated. In addition, the appellant was provided a replacement cane for use. The appellant's request to be compensated \$5000.00 is unfounded and beyond the scope of the appeals process. Although the appellant has the right to submit an appeal, the appellant's request for counseling Sgt. Catlett is beyond the scope of the appeals process. Therefore, no further relief is warranted at the Director's Level of Review.

The appellant has added new issues and requests to his appeal. The additional requested action is not addressed herein as it is not appropriate to expand the appeal beyond the initial problem and the initially requested action (CDC Form 602, Inmate/Parolee Appeal Form, Sections A and B).

B. BASIS FOR THE DECISION:

California Code of Regulations, Title 15, Section: 3001, 3005, 3286, 3391

CDC Operations Manual Section: 72010.7.2

Case 3:08-cv-00161-H-BLM Document 38-4 Filed 08/11/2008 Page 49 of 52

NEHEMIAH ROBINSON, J71342 CASE NO. 0715870 PAGE 2

C. ORDER: No changes or modifications are required by the Institution.

This decision exhausts the administrative remedy available to the appellant within CDCR. If dissatisfied, the appellant may forward this issue to the California Victims Compensation and Government Claims Board, (formerly known as the State Board of Control), Government Claims Unit, P.O. Box 3035, Sacramento, CA 95812-3035, for further review.

N. GRANNIS, Chief Inmate Appeals Branch

cc: Warden, CAL

Appeals Coordinator, CAL

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

CDC 1858 (2/97)

RIGHTS AND RESPONSIBILITY STATEMENT

The California Department of Corrections has added departmental language (shown inside brackets, in non-boldface type) for clarification purposes.

Pursuant to Renal Code (48:6, anyone wishing to file an allegation of misconduct by a departmental peace officer must read, sign and submit the following statement:

YOU HAVE THE RIGHT TO MAKE A COMPLAINT AGAINST A POLICE OFFICER (this includes a departmental peace officer] FOR ANY IMPROPER POLICE [or peace] OFFICER CONDUCT. CALIFORNIA LAW REQUIRES THIS AGENCY TO HAVE A PROCEDURE TO INVESTIGATE CITIZENS' [or inmates'/parolees'] COMPLAINTS. YOU HAVE A RIGHT TO A WRITTEN DESCRIPTION OF THIS PROCEDURE. THIS AGENCY MAY FIND AFTER INVESTIGATION THAT THERE IS NOT ENOUGH EVIDENCE TO WARRANT ACTION ON YOUR COMPLAINT; EVEN IF THAT IS THE CASE, YOU HAVE THE RIGHT TO MAKE THE COMPLAINT AND HAVE IT INVESTIGATED IF YOU BELIEVE AN OFFICER BEHAVED IMPROPERLY. CITIZEN [or inmate/parolee] COMPLAINTS AND ANY REPORTS OR FINDINGS RELATING TO COMPLAINTS MUST BE RETAINED BY THIS AGENCY FOR AT LEAST FIVE YEARS.

IT IS AGAINST THE LAW TO MAKE A COMPLAINT THAT YOU KNOW TO BE FALSE. IF YOU MAKE A COMPLAINT AGAINST AN OFFICER KNOWING IT IS FALSE, YOU CAN BE PROSECUTED ON A MISDEMEANOR CHARGE. [An inmate/parolee who makes a complaint against a departmental peace officer, knowing it is false, may be issued a serious disiplinary rule violation, in addition to being prosecuted on a misdemeanor charge.]

| COMPLAINANT'S PRINTED NAME | COMPLAINANT'S SIGNATURE | DATE SIGNED |
|--------------------------------|-----------------------------|--|
| NEHEMIAH RUBINSUN J-71342 | INMATE/PAROLEE'S SIGNATURE | CDC NUMBER DATE SIGNED 7-7/342 9-1/-07 |
| RECEIVING STAFF'S PRINTED NAME | RÉCEIVING STAFF'S SIGNATURE | DATE SIGNED |

DISTRIBUTION:

ORIGINAL -

Public - Institution Head/Parole Administrator Inmate/Paroiee - Attach to CDC form 602 Employee - Institution Head/Parole Administrator

COPY - Complainant

VERIFICATION

STATE OF CALIFORNIA COUNTY OF IMPERIAL

(C.C.P. SEC.446 & 201.5; 28 U.S.C. SEC. 1746)

| I HAVE READ THE FOREGOINTRUE OF MY OWN KNOWLE | NTIFF NG DOCUMENTS AND KNOW DGE, EXCEPT AS TO MATTER | S STATED THEREIN UPON IT | CTION; ND THE SAME IS |
|---|--|--|--|
| EXECUTED THIS | DAY OF: | 2008 | AT CALIPATRIA |
| | (SIGNATURE) | | TPRISONER) |
| J. | PROOF OF SER P. SEC.1013 (a) & 201 | | |
| I <u>, NEHEMIAH ROBI</u> OF IMPERIAL, STATE OF CA | J-7/342 AM A RESIDEN LIFORNIA. I AM OVER THE A TITLED ACTION. MY STATE | IT OF CALIPATRIA STATE PR GE OF EIGHTEEN (18) YEARS | ISON, IN THE COUNTY OF AGE AND AM / NOT |
| AND THE PROPERTY OF | 2008 I SERV TO DEFENDANTS MOTION TO ITS AND AUTHORITIES IN S LJUDICAL NOTICE AND SU | DODGE OF ODDOSITION TO I | DEFENDANTS MUTICALTA |
| S) | ET FORTH EXACT TITLE O | CHIBITS ATTACHED TO DECL OF DOCUMENTS SERVED) | aration 1—4. |
| WITH POSTAGE THEREON F | IY PLACING A TRUE COPY (S) ULLY PAID, IN THE UNITED S ON, CALIPATRIA, CALIFORN | TATES MAIL, IN A DEPOSIT | SEALED ENVELOPE (S). BOX SO PROVIDED |
| 1) DEPARTMENT OF COFFICE OF THE ATT 110 WEST "A" STR SAN DIEGO, CA. | DENEY GENERAL LEET, SUITE 1100 | CLERK OF U.S. DIST 880 FRONT STREET, SAN DIEGO, CA. 92 | ROOM 4290 |
| | | | |

THERE IS DELIVERY SERVICE BY UNITED STATES MAIL AT THE PLACE SO ADDRESSED, AND THERE IS REGULAR COMMUNICATION BY MAIL BETWEEN THE PLACE OF MAILING AND THE PLACE SO ADDRESSED.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

| ATE: | | • | Mr. Mill Roli |
|------|---|---|----------------------|
| | , | | (DECLARANTIPRISONER) |

VERIFICATION

STATE OF CALIFORNIA COUNTY OF IMPERIAL

(C.C.P. SEC.446 & 201.5; 28 U.S.C. SEC. 1746)

| I. NEHEMIAH ROBINSON J-71342 DECLARE UNDER PENALTY OF PERIURY | |
|--|-----------|
| THAT: I AM THE PLAINTIFF IN THE ABOVE ENTITLED ACTION: | .* |
| I HAVE READ THE FOREGOING DOCUMENTS AND KNOW THE CONTENTS THEREOF AND THE SAME IS | |
| TRUE OF MY OWN KNOWLEDGE, EXCEPT AS TO MATTERS STATED THEREIN UPON INFORMATION, AND | |
| BELIEF, AND AS TO THOSE MATTERS, I BELIEVE THEM TO BE TRUE. | |
| | • |
| EXECUTED THIS DAY OF: _AUGUST 20 08 AT CALIPATRIA | |
| STATE PRISON, CALIPATRIA, CALIFORNIA #92233-5002 | |
| The state of the s | |
| a ll'ul | |
| (SIGNATURE) Mr. Mr. M. | |
| / (DECLARANTIPRISONER) | |
| | |
| PROOF OF SERVICE BY MAIL | • |
| | |
| (C.C.P. SEC.1013 (a) & 2015.5; 28 U.S.C. SEC.1746) | |
| I. NEHEMIAH ROBINSON J-71342 AM A RESIDENT OF CALIPATRIA STATE PRISON, IN THE COUN | TY. |
| OF IMPERIAL, STATE OF CALIFORNIA. I AM OVER THE AGE OF EIGHTEEN (18) YEARS OF AGE AND AM / | NOT |
| A PARTY OF THE ABOVE-ENTITLED ACTION. MY STATE PRISON ADDRESS IS: P.O. BOX 5002. | |
| CALIPATRIA, CALIFORNIA #92233-5002. | • |
| | |
| ON AUGUST 1/ 2008 I SERVED THE FOREGOING: PLAINTIFF'S NOTICE O | F MOTIO |
| ON AUGUST 1/ 2008 I SERVED THE FOREGOING: PLAINTIFF'S NOTICE O 2.) PLAINTIFF'S OPPOSITION TO DEFENDANTS MOTION TO DISMISS PLAINTIFF'S FIRST AMENDED COMPL MEMORANDUMO OF POINTS AND AUTHORITIES IN SUPPORT, 4.) DECLARATION OF N. ROBINSON | AINT, 3.) |
| Support of REQUEST FOR JUDICIAL NOTICE AND SUPPORT OF OPPOSITION TO DEFENDANTS MOT | TON TO |
| PISMISS PLAINTIFFS FIRST AMENDED COMPLAINT, EXHIBITS ATTACHED TO DECLARATION 1-4. (SET FORTH EXACT TITLE OF DOCUMENTS SERVED) | 1014 10 |
| | |
| ON THE PARTY (S) HEREIN BY PLACING A TRUE COPY (S) THEREOF, ENCLOSED IN A SEALED ENVELOPE | . (S), |
| WITH POSTAGE THEREON FULLY PAID, IN THE UNITED STATES MAIL, IN A DEPOSIT BOX SO PROVIDED | |
| AT CALIPATRIA STATE PRISON, CALIPATRIA, CALIFORNIA #92233-5002. | |
| 1) DEPARTMENT OF JUSTICE 2) CLERK OF U.S. DISTRICT COURT | |
| DEFICE OF THE ATTORNEY GENERAL 880 FRONT STREET ROOM 4290 | |
| 110 WEST "A" STREET, SUITE 1100 SAN DIEGO, CA. 92101 - 8900 | |
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THERE IS DELIVERY SERVICE BY UNITED STATES MAIL AT THE PLACE SO ADDRESSED, AND THERE IS REGULAR COMMUNICATION BY MAIL BETWEEN THE PLACE OF MAILING AND THE PLACE SO ADDRESSED.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

DATE: AUGUST 1,2008.

Mr. M.L. Rot.
(DECLARANTIPRISONER)